
ANNALS

OF

THE CONGRESS OF THE UNITED STATES.

FOURTH CONGRESS—FIRST SESSION.



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THE

DEBATES AND PROCEEDINGS

IN THE

CONGRESS OF THE UNITED STATES ;

WITH

AN APPENDIX,

CONTAINING

IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,

AND ALL

THE LAWS OF A PUBLIC NATURE;

WITH A COPIOUS INDEX.

FOURTH CONGRESS—FIRST SESSION.

COMPRISING THE PERIOD FROM DECEMBER 7, 1795, TO JUNE 1, 1796,
INCLUSIVE.

COMPILED FROM AUTHENTIC MATERIALS.

WASHINGTON:

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1855.

PROCEEDINGS

OF

THE SENATE OF THE UNITED STATES,

AT THE FIRST SESSION OF THE FOURTH CONGRESS, HELD IN THE CITY OF
PHILADELPHIA, DECEMBER 7, 1795.

MONDAY, December 7, 1795.

The following Senators appeared, and took their seats:

JOHN LANGDON and SAMUEL LIVERMORE, from New Hampshire;

CALEB STRONG and GEORGE CABOT, from Massachusetts;

THEODORE FOSTER, from Rhode Island;

OLIVER ELLSWORTH and JONATHAN TRUMBULL, from Connecticut;

MOSES ROBINSON, from Vermont;

RUFUS KING, from New York;

JAMES ROSS and WILLIAM BINGHAM, from Pennsylvania;

HENRY LATIMER, from Delaware;

HENRY TAZEWELL and STEPHENS T. MASON, from Virginia;

ALEXANDER MARTIN and TIMOTHY BLOODWORTH, from North Carolina;

PIERCE BUTLER and JACOB READ, from South Carolina.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a PRESIDENT *pro tempore*, as the Constitution provides, and HENRY TAZEWELL was duly elected.

Ordered, That the Secretary wait on the PRESIDENT OF THE UNITED STATES, and acquaint him that a quorum of the Senate is assembled, and that, in the absence of the VICE PRESIDENT, they have elected HENRY TAZEWELL, President *pro tempore*.

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled and ready to proceed to business; and that, in the absence of the VICE PRESIDENT, they have elected HENRY TAZEWELL President *pro tempore*.

Ordered, That MESSRS. READ and CABOT be a joint committee on the part of the Senate, together with such committee as the House of Representatives may appoint on their part to wait on the PRESIDENT OF THE UNITED STATES, and notify him that a quorum of the two Houses is assembled and ready to receive any communications that he may be pleased to make to them.

A message from the House of Representatives informed the Senate that a quorum of the House

is assembled; that they have elected JONATHAN DAYTON their Speaker; and that they have concurred in the appointment of a joint committee to wait on the PRESIDENT OF THE UNITED STATES, and acquaint him that the two Houses of Congress are assembled, and are ready to receive any communications that he may be pleased to lay before them.

Mr. READ from the joint committee appointed for that purpose, reported that they had waited on the PRESIDENT OF THE UNITED STATES, and had notified him that a quorum of the two Houses of Congress were assembled: and the PRESIDENT OF THE UNITED STATES acquainted the committee that he would meet the two Houses in the Representatives' chamber at 12 o'clock to-morrow.

TUESDAY, December 8.

HUMPHREY MARSHALL, from the State of Kentucky, attended.

A message from the House of Representatives informed the Senate that the House are now ready to meet the Senate in the Chamber of that House, to receive such communications as the PRESIDENT OF THE UNITED STATES shall be pleased to make to them.

Whereupon, the Senate repaired to the Chamber of the House of Representatives for the purpose above expressed.

The Senate then returned to their own Chamber, and a copy of the Speech of the PRESIDENT OF THE UNITED STATES to both Houses of Congress was read, as follows:

*Fellow-citizens of the Senate, and
of the House of Representatives:*

I trust I do not deceive myself while I indulge the persuasion that I have never met you at any period, when, more than at the present, the situation of our public affairs has afforded just cause for mutual congratulation, and for inviting you to join with me in profound gratitude to the Author of all Good for the numerous and extraordinary blessings we enjoy.

The termination of the long, expensive, and distressing war in which we have been engaged with certain Indians Northwest of the Ohio, is placed in the option of the United States, by a Treaty which the Commander

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of our Army has concluded, provisionally, with the hostile tribes in that region.

In the adjustment of the terms, the satisfaction of the Indians was deemed an object worthy no less of the policy than of the liberality of the United States, as the necessary basis of durable tranquility. The object, it is believed, has been fully attained. The articles agreed upon will immediately be laid before the Senate, for their consideration.

The Creek and Cherokee Indians, who alone, of the Southern tribes, had annoyed our frontiers, have lately confirmed their pre existing treaties with us, and were giving evidence of a sincere disposition to carry them into effect, by the surrender of the prisoners and property they had taken; but we have to lament that the fair prospect in this quarter has been once more clouded by wanton murders, which some citizens of Georgia are represented to have recently perpetrated on hunting parties of the Creeks which have again subjected that frontier to disquietude and danger; which will be productive of further expense, and may occasion more effusion of blood. Measures are pursuing to prevent or mitigate the usual consequences of such outrages, and with the hope of their succeeding, at least, to avert general hostility.

A Letter from the Emperor of Morocco announces to me his recognition of our Treaty made with his father the late Emperor, and, consequently the continuance of peace with that Power. With peculiar satisfaction I add, that information has been received from an agent deputed on our part to Algiers, importing that the terms of the Treaty with the Dey and Regency of that country had been adjusted in such a manner as to authorize the expectation of a speedy peace, and the restoration of our unfortunate fellow-citizens from a grievous captivity.

The latest advices from our Envoy at the Court of Madrid, give, moreover, the pleasing information that he had received assurances of a speedy and satisfactory conclusion of his negotiation. While the event, depending upon unadjusted particulars, cannot be regarded as ascertained, it is agreeable to cherish the expectation of an issue which, securing, amicably, very essential interests of the United States, will, at the same time, lay the foundation of lasting harmony with a Power, whose friendship we have uniformly and sincerely desired to cultivate.

Though not before officially disclosed to the House of Representatives, you, gentlemen, are all apprised that a Treaty of Amity, Commerce, and Navigation, has been negotiated with Great Britain; and that the Senate have advised and consented to its ratification, upon a condition which excepts part of one article. Agreeably thereto, and to the best judgment I was able to form of the public interest, after full and mature deliberation, I have added my sanction. The result, on the part of His Britannic Majesty, is unknown. When received, the subject will, without delay, be placed before Congress.

This interesting summary of our affairs, with regard to the foreign Powers between whom and the United States controversies have subsisted, and with regard also to those of our Indian neighbors, with whom we have been in a state of enmity or misunderstanding, opens a wide field for consoling and gratifying reflections. If, by prudence and moderation on every side, the extinguishment of all the causes of external discord which have heretofore menaced our tranquility, on terms compatible with our national rights and honor, shall be

the happy result, how firm and how precious a foundation will have been laid for accelerating, maturing, and establishing the prosperity of our country.

Contemplating the internal situation, as well as the external relations, of the United States, we discover equal cause for contentment and satisfaction. While many of the nations of Europe, with their American dependencies, have been involved in a contest unusually bloody, exhausting, and calamitous; in which the evils of foreign war have been aggravated by domestic convulsions and insurrection; in which many of the arts most useful to society have been exposed to discouragement and decay; in which scarcity of subsistence has embittered other sufferings; while even the anticipations of a return of the blessings of peace and repose are alloyed by the sense of heavy and accumulating burdens which press upon all the departments of industry, and threaten to clog the future springs of Government; our favored country, happy in a striking contrast, has enjoyed general tranquility—a tranquility the more satisfactory, because maintained at the expense of no duty. Faithful to ourselves, we have violated no obligation to others. Our agriculture, commerce, and manufactures, prosper beyond former example; the molestations of our trade (to prevent a continuance of which, however, very pointed remonstrances have been made) being overbalanced by the aggregate benefits which it derives from a neutral position. Our population advances with a celerity which, exceeding the most sanguine calculations, proportionally augments our strength and resources, and guarantees our future security. Every part of the Union displays indications of rapid and various improvement; and with burdens so light as scarcely to be perceived; with resources fully adequate to our present exigencies; with Governments founded on the genuine principles of rational liberty; and with mild and wholesome laws—is it too much to say that our country exhibits a spectacle of national happiness never surpassed, if ever before equalled?

Placed in a situation every way so auspicious, motives of commanding force impel us with sincere acknowledgment to Heaven, and pure love to our country, to unite our efforts to preserve, prolong, and improve, our immense advantages. To co-operate with you in this desirable work, is a fervent and favorite wish of my heart.

It is a valuable ingredient in the general estimate of our welfare, that the part of our country which was lately the scene of disorder and insurrection, now enjoys the blessings of quiet and order. The misled have abandoned their errors, and pay the respect to our Constitution and laws which is due from good citizens to the public authorities of the society. These circumstances have induced me to pardon generally, the offenders here referred to, and to extend forgiveness to those who had been adjudged to capital punishment. For, though I shall always think it a sacred duty to exercise with firmness and energy the Constitutional powers with which I am vested, yet it appears to me no less consistent with the public good than it is with my personal feelings, to mingle, in the operations of Government, every degree of moderation and tenderness which the national justice, dignity, and safety, may permit.

Gentlemen :

Among the objects which will claim your attention in the course of the session, a review of our Military Establishment is not the least important. It is called for by the events which have changed, and may be expected still further to change the relative situation of our fron-

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tiers. In this review, you will doubtless allow due weight to the considerations that the questions between us and certain foreign Powers are not yet finally adjusted; that the war in Europe is not yet terminated; and that our Western posts, when recovered, will demand provision for garrisoning and securing them. A statement of our present military force will be laid before you by the Department of War.

With the review of our Army Establishment is naturally connected that of the Militia. It will merit inquiry, what imperfections in the existing plan further experience may have unfolded. The subject is of so much moment, in my estimation, as to excite a constant solicitude that the consideration of it may be renewed until the greatest attainable perfection shall be accomplished. Time is wearing away some advantages for forwarding the object, while none better deserves the persevering attention of the public council.

While we indulge the satisfaction which the actual condition of our Western borders so well authorizes, it is necessary that we should not lose sight of an important truth, which continually receives new confirmations, namely; that the provisions heretofore made with a view to the protection of the Indians from the violence of the lawless part of our frontier inhabitants are insufficient. It is demonstrated that these violence can now be perpetrated with impunity; and it can need no argument to prove, that, unless the murdering of Indians can be restrained by bringing the murderers to condign punishment, all the exertions of the Government to prevent destructive retaliations by the Indians will prove fruitless, and all our present agreeable prospects illusory. The frequent destruction of innocent women and children, who are chiefly the victims of retaliation, must continue to shock humanity, and an enormous expense to drain the Treasury of the Union.

To enforce upon the Indians the observance of justice, it is indispensable that there shall be competent means of rendering justice to them. If these means can be devised by the wisdom of Congress, and especially if there can be added an adequate provision for supplying the necessities of the Indians, on reasonable terms—a measure, the mention of which I the more readily repeat, as in all the conferences with them they urge it with solicitude—I should not hesitate to entertain a strong hope of rendering our tranquility permanent. I add, with pleasure, that the probability even of their civilization is not diminished by the experiments which have been thus far made under the auspices of Government. The accomplishment of this work, if practicable, will reflect undecaying lustre on our national character, and administer the most grateful consolations that virtuous minds can know.

Gentlemen of the House of Representatives:

The state of our revenue, with the sums which have been borrowed and reimbursed pursuant to different acts of Congress, will be submitted from the proper Department, together with an estimate of the appropriations necessary to be made for the service of the ensuing year.

Whether measures may not be advisable to re-enforce the provision for the redemption of the Public Debt, will naturally engage your examination. Congress have demonstrated their sense to be, and it were superfluous to repeat mine, that whatsoever will tend to accelerate the honorable extinction of our Public Debt, accords as much with the true interest of our country as with the general sense of our constituents.

*Gentlemen of the Senate, and
of the House of Representatives:*

The statements which will be laid before you relative to the Mint will show the situation of that institution, and the necessity of some further Legislative provisions for carrying the business of it more completely into effect, and for checking abuses which appear to be arising in particular quarters.

The progress of providing materials for the frigates, and in building them; the state of the fortifications of our harbors; the measures which have been pursued for obtaining proper sites for arsenals, and for replenishing our magazines with military stores; and the steps which have been taken towards the execution of the law for opening a trade with the Indians—will likewise be presented for the information of Congress.

Temperate discussion of the important subjects which may arise in the course of the session, and mutual forbearance where there is a difference of opinion, are too obvious and necessary for the peace, happiness, and welfare, of our country, to need any recommendation of mine.

G. WASHINGTON.

UNITED STATES, December 8, 1795.

Ordered, That MESSRS. KING, ELLSWORTH, and CABOT, be a Committee to report the draft of an Address to the PRESIDENT OF THE UNITED STATES, in answer to his Speech this day to both Houses of Congress.

WEDNESDAY, December 9.

The VICE PRESIDENT of the United States attended.

The following motion was made by Mr. MARTIN:

Resolved, That, in conformity to a resolution of the Senate of the United States, passed the 20th day of February, 1794, the gallery of the Senate Chamber be permitted to be opened every morning, subject to the restrictions therein mentioned, a suitable gallery having been erected and provided in the Senate Chamber, in the late recess of Congress, for that purpose."

And, the motion being amended, it was

Resolved, That in conformity to a resolution of the Senate of the United States, passed the 20th day of February, 1794, the gallery of the Senate Chamber be permitted to be opened every morning, subject to the restrictions in said resolution mentioned.

A message from the House of Representatives informed the Senate that the House have resolved that two Chaplains, of different denominations, be appointed to Congress for the present session, one by each House, who shall interchange weekly; in which they desire the concurrence of the Senate.

Whereupon, the Senate proceeded to consider the said resolution; and

Resolved, That they do concur therein, and that the Right Reverend Bishop WHITE be the Chaplain on the part of the Senate.

Resolved, That each Senator be supplied during the present session with copies of three such newspapers, printed in any of the States, as he may choose, provided that the same are furnished at the rate of the usual annual charge for such papers.

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THURSDAY, December 10.

JOHN BROWN, from the State of Kentucky, and FREDERICK FRÉLINCHUYSEN, from the State of New Jersey, severally attended.

Mr. KING from the committee appointed for that purpose, reported the draft of an Address to the PRESIDENT OF THE UNITED STATES, in answer to his Speech to both Houses of Congress, at the opening of the session, which was read, and ordered to lie for consideration until to-morrow.

FRIDAY, December 11.

ELIJAH PAINE, from the State of Vermont, attended.

ADDRESS TO THE PRESIDENT.

The Senate took into consideration the report made by the Committee, of an Address to the PRESIDENT OF THE UNITED STATES, in answer to his Speech to both Houses of Congress, at the opening of the session, which is as follows:

SIR: It is with peculiar satisfaction that we are informed by your Speech to the two Houses of Congress, that the long and expensive war in which we have been engaged with the Indians Northwest of the Ohio is in a situation to be finally terminated; and, though we view with concern the danger of an interruption of the peace so recently confirmed with the Creeks, we indulge the hope, that the measures that you have adopted to prevent the same, if followed by those Legislative provisions that justice and humanity equally demand, will succeed in laying the foundation of a lasting peace with the Indian tribes on the Southern as well as on the Western frontiers.

The confirmation of our Treaty with Morocco, and the adjustment of a Treaty of Peace with Algiers, in consequence of which our captive fellow-citizens shall be delivered from slavery, are events that will prove no less interesting to the public humanity, than they will be important in extending and securing the navigation and commerce of our country.

As a just and equitable conclusion of our depending negotiations with Spain will essentially advance the interest of both nations, and thereby cherish and confirm the good understanding and friendship which we have at all times desired to maintain, it will afford us real pleasure to receive an early confirmation of our expectations on this subject.

The interesting prospect of our affairs, with regard to the foreign Powers between whom and the United States controversies have subsisted, is not more satisfactory, than the review of our internal situation: if from the former we derive an expectation of the extinguishment of all the causes of external discord, that have heretofore endangered our tranquility, and on terms consistent with our national honor and safety, in the latter we discover those numerous and wide-spread tokens of prosperity which, in so peculiar a manner, distinguish our happy country.

Circumstances thus every way auspicious demand our gratitude, and sincere acknowledgments to Almighty God, and require that we should unite our efforts in imitation of your enlightened, firm, and persevering example, to establish and preserve the peace, freedom, and prosperity, of our country.

The objects which you have recommended to the notice of the Legislature will, in the course of the session,

receive our careful attention, and, with a true zeal for the public welfare, we shall cheerfully co-operate in every measure that shall appear to us best calculated to promote the same.

JOHN ADAMS,
*Vice President of the United States,
and President of the Senate.*

The Address was taken up by paragraphs.

The fourth and fifth paragraphs were moved to be struck out by Mr. MASON.

Mr. MASON observed that he had hoped nothing contained in the Address reported as an answer to the PRESIDENT'S Speech, would have been such as to force the Senate to precipitate decisions. The two clauses he objected to disappointed him in that hope. They were calculated to bring again into view the important subject which occupied the Senate during their June session. This he conceived could answer no good purpose; the minority on that occasion were not now to be expected to recede from the opinions they then held, and they could not therefore join in the indirect self-approbation which the majority appeared to wish for, and which was most certainly involved in the two clauses which he should hope would be struck out. If his motion were agreed to, the remainder of the Address would, in his opinion, stand unexceptionable. He did not see, for his part, that our situation was every way auspicious. Notwithstanding the Treaty, our trade is grievously molested.

Mr. KING observed, that the principal features observable in the answer reported to the PRESIDENT'S Address, were to keep up that harmony of intercourse which ought to subsist between the Legislature and the PRESIDENT, and to express confidence in the undiminished firmness and love of country which always characterize our chief Executive Magistrate. He objected to striking out especially the first clause, because founded on undeniable truth. It only declares that our prospects, as to our external relations, are not more satisfactory than a review of our internal situation would prove. Was not this representation true, he asked; could it be controverted? This clause, he contended, contained nothing reasonably objectionable; it did not say as much as the second, to which only most of the objections of the member up before him applied, an answer to which he should defer, expecting that a question would be put on each in order.

The clause he said appeared to him drawn up in such terms as could not offend the nicest feelings of the minority on the important decision in June; it was particularly circumspect and cautious. If liable to objection it was in not going as far as the truth would warrant.

Some conversation took place as to the mode required by order of putting the question; whether it should be put on each clause separately, or whether upon striking out both at once.

The Chair requested that the motion should be reduced to writing. Mr. MASON accordingly reduced it to writing, and it went to striking out both clauses at once.

Mr. MASON agreed most cordially that the situa-

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tion of our external relations were not more a cause of joy than our situation at home. But the obvious meaning of the clause, he conceived, was an indirect approval of our situation relative to external concerns; and to this he could not give his assent, as he did not consider their aspect as prosperous or auspicious.

Mr. BUTLER said, that when the committee was appointed to draft an answer, he hoped they would have used such general terms as to have secured an unanimous vote. He was willing to give the Chief Magistrate such an answer as respect to his station entitled him to, but not such a one as would do violence to his regard for the Constitution and his duty to his constituents. He could not approve of long and detailed answers, however unexceptionable the Speech might be in matter, and however respectable the character might be from whom it came. He had hoped, from the peculiar situation of the country, and of the Senate, that nothing would have been brought forward in the answer, on the subject which agitated the June Executive session, calculated to wound the feelings of members. He had been disappointed; it was evident that some members of the Senate could not give their voice in favor of the Address in its present shape, without involving themselves in the most palpable inconsistency.

He had long since, for his own part, declared himself against every article of the Treaty, because in no instance is it bottomed on reciprocity, the only honorable basis. After this declaration, how could he, or those who coincided in opinion with him, agree to the present Address without involving themselves in the most palpable inconsistency?

He did not agree with the gentleman of New York in his exposition of the meaning of the clauses objected to. They certainly declare our situation as to our external relations to be favorable. Our situation, as far as it respects Great Britain, he contended, was not in the least ameliorated. Their depredations on our commerce have not been less frequent of late than at any period since the beginning of her war with France. Her orders for the seizure of all our vessels laden with provisions cannot surely be a subject for congratulation. When it became authenticated that our trade was relieved from these embarrassments, then he was confident the members of the Senate, who were with him in sentiment, would readily express their satisfaction at the auspicious prospect opened for this country to the enjoyments of tranquility and happiness. But, until that happy time should arrive, he could not give his voice to deceive the inhabitants of the United States, remote from the sources of information, to hoodwink them by sanctioning with his vote a statement unwarranted by truth, and presenting to them a picture of our public happiness not sanctioned by fact.

The sentence objected to, notwithstanding the explanation of the gentleman from New York, appeared to him so worded as to lead the citizens at large to believe that the spoiliations on our commerce were drawing to a fortunate close. This

was not, he conceived, warranted by the existing state of things. Indeed, he protested, he knew no more of the actual situation of the Treaty negotiation than the remotest farmer in the Union; could he then declare, he asked, that it was drawing to a happy close? Indeed, from the latest information received, far from our situation having been ameliorated by the negotiations of our Executive, he conceived our trade as much in jeopardy as ever.

As to the internal prosperity, he owned there was some cause for congratulation; but even in this his conviction could not carry him as far as the clauses in the Address seemed to go. In a pecuniary point of view, the country had made a visible progress; but he saw in it no basis of permanent prosperity. There were no circumstances attendant on it that gave a fair hope that the prosperity would be permanent. The chief cause of our temporary pecuniary prosperity is the war in Europe, which occasions the high prices our produce at present commands; when that is terminated, those advantageous prices will of course fall.

Mr. B. now came to speak of the second objectionable clause. He regretted whenever a question was brought forward that involved personality in the most indirect manner. He wished always to speak to subjects unconnected with men; but the wording of the clause was unfortunately such as to render allusion to official character unavoidable. He objected principally to the epithet *firm*, introduced into the latter clause, as applied to the Supreme Executive. Why *firmness*? he asked. To what? or to whom? Is it the *manly* demand of restitution made of Great Britain for her accumulated injuries that called forth the praise? for his own part he could discern no firmness there. Is it for the *undaunted* and *energetic* countenance of the cause of France, in her struggle for freeing herself from despotic shackles? He saw no *firmness* displayed on that occasion. Where then is it to be found? Was it in the opposition to the minority of the Senate and the general voice of the people against the Treaty that that *firmness* was displayed? If it is that *firmness* in opposing the will of the people, which is intended to be extolled, the vote shall never, said Mr. B., leave the walls of the Senate with *my* approbation.

He could not approve, he said, that *firmness* that prompted the Executive to resist the unequivocal voice of his fellow-citizens from New Hampshire to Georgia. He would have applauded the firmness of the PRESIDENT, if, in compliance with the unequivocal wish of the people, he had resisted the voice of the majority on the Treaty, and refused his signature to it.

This was, he understood, (and it should be mentioned in honor of the PRESIDENT,) his first intention; why he changed it, time, he said, must disclose.

He concluded by proposing an amendment to be substituted in lieu of the objectionable clauses, should they be struck out.

Mr. READ said, he was not in the habit of giv-

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ing a silent vote, and, as many of his constituents were adverse to the instrument to which he had given his assent, he thought this a fit opportunity to say something on the subject.

Gentlemen on the other side had spoken of their feelings; did they suppose, he asked, that those who were in the majority had not feelings? Also, gentlemen declared they would not recede from their former determinations; did they expect that the majority would recede?

He had, he said, taken the question of the Treaty in all its aspects, and considered it maturely, and though he lamented that he differed in opinion on that subject with his colleague, and a portion of the people of his State, he nevertheless remained convinced that the ratification of it was advisable: It rescued the country from war and its desolating horrors.

After reading that part of the PRESIDENT'S Speech to which the clauses objected to were an echo, he asked, whether any one could say, under the conviction that the measures of Government had prevented a war, that our view of foreign relations was not consolatory? On all hands, he observed, the idea of a war was deprecated; both sides of the House wished to avoid it; then is it not a consolatory reflection to all that its horrors have been averted? Is there a man who does not believe that, had the Treaty not been ratified, we should have had war? If the country had been plunged into a war, would it be as flourishing as it is?

The trifling vexations our commerce has sustained are not to be compared to the evils of hostility. What good end could have been answered by a war? The Address, in the part under discussion, says no more than that we rejoice at the prospect that the blessings of peace will be preserved; and does not this expectation exist?

Great Britain, in the plenitude of her power, had availed herself of the right she had, under the Law of Nations, of seizing enemy's goods in neutral vessels; but has allowed compensation to some Americans, and a system of mild measures on our part is the best security for further.

He adverted to that part of Mr. BUTLER'S observations which related to the probable fall of provisions at the peace. We ought not to be grieved if Europe was rid of the calamities of war at that price. But he contended that, from the measures of the Administration, permanent advantages were secured to this country. The value of our soil has been enhanced; wealth has poured in from various parts of the globe, and many permanent advantages secured.

There had been one assertion made, which, by repetition, had by some almost been taken for granted, but which required proof to induce him to believe it, and that was, that a majority of the citizens of the United States are opposed to the Treaty. In the part of the country he came from, he owned there might be a majority of that opinion, but he believed the contrary of the United States at large; he expressed a conviction that, when his constituents came to consider the measure maturely, they would change their opinions, and, indeed, he understood that the false impres-

sions by which they were at first actuated, were already wearing off.

But the Senate and PRESIDENT are the Constitutional Treaty-making powers. If mistaken in their decisions, they cannot be accused of having been misled by sudden and immaturred impressions. He should conceive himself unfit to fill a chair in the Senate, if he suffered himself to be carried away by such impressions. The people could not, in their town meetings, deprived of proper information, possibly form an opinion that deserved weight, and it was the duty of the Executive not to be shaken in their determination by tumultuous proceedings from without. Upon this ground he much approved the PRESIDENT'S conduct, and thought it entitled to the epithet firm.

In local questions, affecting none but the interests of his constituents, he should attend to their voice, but on great national points, he did not consider himself as a Representative from South Carolina, but as a Senator for the Union. In questions of this last kind, even if the wishes of his constituents were unequivocally made known to him, he should not conceive himself bound to sacrifice his opinions to theirs. He viewed the PRESIDENT as standing in this situation, and though he might hear the opinions of the people from every part of the United States, he should not sacrifice to them his own conviction; in this line of conduct he has shown his firmness, and deserves to be complimented for it by the Senate.

The Address reported, he said, contained nothing that could wound the feelings of any member. The Senate would not, in his opinion, act improperly if they expressed opinions coincident with their act in the June session. The feelings of the majority should be as much consulted as those of the minority. The minority are not asked to retract; but there is a propriety in the Senate's going as far in their Address as the Speech went, though it should be styled a vote of self-approbation. He hoped the clauses would not be struck out.

Mr. ELLSWORTH was opposed to striking out. The clause records a fact, and if struck out the Senate deny it. The PRESIDENT asserts it, in the Address reported, the Senate assent, a motion is made to strike out, is it because the truth of it is doubted? It cannot be called an unimportant fact, therefore its omission will not be imputed to oversight. The latter part of the clause expresses our gratitude to Almighty God. Will the Senate refuse to make an acknowledgment of that kind? Do they not admit that He is the source of all Good, and can they refuse to acknowledge it? And if so, is it possible that, in admitting the fact and expressing the sentiment, which so naturally flows from it, the Senate should wound the feelings of any friend to his country?

The truth of the fact is as clear as that the sun now shines; the sentiment is unexceptionable; he, therefore, recommended to his friend the mover, not to insist upon striking out merely, but that he should vary the motion, and propose a substitute.

To bring the mind to the point with precision,

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it was necessary to attend to the wording of the clause. He read it. As to the signification of that part which relates to our foreign concerns, he did not consider it as hypothetical, but a positive declaration of a conviction that their situation is satisfactory, and on that ground he wished to meet the question.

The clause objected to expresses an expectation that the causes of external disagreement which have unhappily existed, will be peaceably done away. He said he had that expectation; many have it not. Those who have it not will negative the clause; those who have it will vote in its favor; the result will be the sense of a majority; the Senate could not be expected, more than on other occasions, to be unanimous; if the declarations contained in those clauses are supported, they will be considered as the sense of the majority of the Senate, others may dissent; but because unanimity could not be obtained it was no reason why the majority should give a virtual negative to the declaration which they conceived founded on truth.

He examined in detail the situation of our external relations, to show the foundation on which he rested his expectation of a satisfactory arrangement of them, and of our general prosperity in that respect. With Morocco, our treaties are renewed. With Algiers, assurances are given by the Executive that a peace is not far distant. With Spain, on the same authority, it is understood that our prospects are favorable in that quarter. With the hitherto hostile Indians, a peace is within reach; and the only quarter in which doubt can arise is from Great Britain. But even with respect to that nation, his expectation was, that our differences there would terminate amicably; and he believed this to be the expectation of the Senate, as a collective body.

Mr. E. then went into the examination of some other parts of the clauses objected to, and vindicated the propriety of the epithets, enlightened, firm, persevering, and concluded by lamenting that there existed a difference of opinion, but hoped that this would not deter the majority from an expression of their sense.

Mr. TAZEWELL said, the discussion had taken a turn different from that which he expected when he heard the motion. He understood the motion at the time it was made, and still so understood it, as not intending to question the propriety of any thing which was contained in the PRESIDENT's communication to both Houses of Congress. But from what had been said (by Mr. READ, of South Carolina) that part of the answer to the PRESIDENT's communication which had given rise to the motion, was intended to have a further operation than he originally believed. He asked what had given rise to the practice of returning an answer of any kind to the PRESIDENT's communication to Congress in the form of an Address? There was nothing, he said, in the Constitution, or in any of the fundamental rules of the Federal Government which required that ceremony from either branch of the Congress. The practice was but an imitation of the ceremonies used upon like

occasions in other countries, and was neither required by the Constitution, nor authorized by the principles upon which our Government was erected. But having obtained, he did not intend now to disturb it. To allow the utmost latitude to the principle which had begotten the practice, it could only tolerate the ceremony as a compliment to the Chief Magistrate. It could not be permitted to arrest all opinions previous to regular discussions, nor to operate as a means of pledging members to the pursuit of a particular course, which subsequent and more full inquiries might show to be extremely improper. Every answer, therefore, to the PRESIDENT's communication ought to be drawn in terms extremely general, neither seducing the PRESIDENT into a belief that this House would pursue a general recommendation into points not at first contemplated by them, nor pledged themselves to the world that that state of things was just, which time had not permitted them thoroughly to examine. The clauses now under consideration had, at least in one instance, deviated from this principle. They declare to the world, "That the interesting prospect of our affairs with regard to the foreign Powers, between whom and the United States controversies have subsisted, is not more satisfactory than the review of our internal situation." The communications from the PRESIDENT have not uttered so bold a sentiment, nor is there any thing in those communications that justifies the assertion of this fact: Placing the Treaty with Great Britain out of the question, which seems to have been the uppermost consideration when this sentence was penned, the seizure of our provision vessels since the signature of that Treaty, and the unwarrantable imprisonment of our seamen, are acts which cloud our prosperity and happiness. The minds of the Americans must be brought to consider these things as trivial incidents in our political affairs, before the sentence under consideration can be approved. He said he must, therefore, vote for the motion to strike out the two clauses of the answer, in order that some more fit expressions might then be introduced to succeed them. He hoped the answer might be couched, in terms just and delicate towards the PRESIDENT, without wounding the feelings of any Senator; and he believed both might be done without any difficulty after the two clauses were expunged.

After some further observations from Messrs. MASON, BUTLER, and BLODOWORTH, in which the latter expressed the opinion that he did conceive the terms of our peace with Great Britain consistent with the dignity and honor of the United States, the question was put, and decided for striking out—ayes 8, noes 14.

On a further attempt to amend one of the clauses some conversation took place more remarkable for ingenuity than interesting for solidity, being chiefly a debate upon words. The Senate divided on it—7 to 15.

On the question, of agreeing to the Address, it was carried—14 to 8, as follows:

YEAS.—Messrs. Bingham, Cabot, Ellsworth, Foster,

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Frelinghuysen, King, Latimer, Livermore, Marshall, Paine, Read, Ross, Strong, and Trumbull.

NAYS.—Messrs. Bloodworth, Brown, Butler, Langdon, Martin, Mason, Robinson, and Tazewell.

Ordered, That the Committee who prepared the Address wait on the PRESIDENT OF THE UNITED STATES, and desire him to acquaint the Senate at what time and place it will be most convenient for him that it should be presented.

Mr. KING reported, from the committee, that they had waited on the PRESIDENT OF THE UNITED STATES, and that he would receive the Address of the Senate to-morrow at 12 o'clock. Whereupon, resolved, that the Senate will, to-morrow at 12 o'clock, wait on the PRESIDENT OF THE UNITED STATES accordingly.

A message from the House of Representatives informed the Senate that the House have proceeded to the choice of a Chaplain to Congress on their part, and the Rev. ASHBEL GREEN is duly elected.

SATURDAY, December 12.

Agreeably to the resolution of yesterday, the Senate waited on the PRESIDENT OF THE UNITED STATES, and the VICE PRESIDENT, in their name, presented the Address then agreed to.

To which the PRESIDENT OF THE UNITED STATES was pleased to make the following reply :

GENTLEMEN: With real pleasure I receive your Address, recognising the prosperous situation of our public affairs, and giving assurances of your careful attention to the objects demanding Legislative consideration; and that, with a true zeal for the public welfare, you will cheerfully co-operate in every measure which shall appear to you best calculated to promote the same.

But I derive peculiar satisfaction from your concurrence with me in the expressions of gratitude to Almighty God, which a review of the auspicious circumstances that distinguish our happy country have excited; and I trust the sincerity of our acknowledgments will be evinced by a union of efforts to establish and preserve its peace, freedom, and prosperity.

G. WASHINGTON.

The Senate returned to their own Chamber, and soon after adjourned.

MONDAY, December 14.

JOHN RUTHERFURD, from New Jersey, attended.

The petition of John Blanch was presented and read, praying Congress to grant him a patent, for executing and vending a new hydrostatic pump or engine, for such length of time as may be judged expedient.

Ordered, That this petition be referred to Messrs. BUTLER, STRONG, and READ, to consider and report thereon to the Senate.

The VICE PRESIDENT laid before the Senate a communication from the Secretary for the Department of State, with copies of two reports, made by the Directors of the Mint, to the PRESIDENT OF THE UNITED STATES; which were read, and referred to Messrs. CABOT, BINGHAM, and RUTHERFURD, to consider and report thereon to the Senate.

TUESDAY, December 15.

AARON BURR, from New York, and JOHN VINING, from Delaware, severally attended.

The VICE PRESIDENT laid before the Senate a communication from the Department of War, with the following statements:

No. 1. Of the present Military force of the United States.

No. 2. A report of the measures which have been pursued to obtain proper sites for Arsenals.

No. 3. A report of the measures which have been taken to replenish the magazines with military stores.

No. 4. A report of the measures taken for opening a trade with the Indians; and,

No. 5. A report of the progress made in providing materials for the frigates, and in building them.

Which statements were severally read, and ordered to lie for consideration.

WEDNESDAY, December 16.

WILLIAM BRADFORD, from Rhode Island, attended.

Ordered, That Messrs. BURR, BROWN, and ELLSWORTH, be a committee to take into consideration the report from the Department of War, of the measures taken for opening a trade with the Indians, and report thereon to the Senate.

The petition of Samuel Jones, and others, in behalf of some hundreds from Wales, who have left their native country with a view of forming a permanent establishment in America, praying liberty to purchase a certain tract of land mentioned in the petition, was read, and ordered to lie on the table.

THURSDAY, December 17.

The VICE PRESIDENT laid before the Senate a Letter from Samuel Meredith, Treasurer, together with his accounts, ending 31st December, 1794, 31st March, 1795, and 30th June, 1795.

Also, his accounts in the War Department, ending 31st March, 30th June, and 30th September, 1795; which were read, and ordered to lie for inspection.

Ordered, That Messrs. STRONG, LIVERMORE, and BURR, be a committee to inquire what business remained unfinished at the last session, and report such part thereof as is proper to be taken into consideration the present session.

On motion, that it be

Resolved, That the Secretary of War be requested to lay before the Senate an account of the expenditures in the late military operations against the insurgents."

It was agreed that this motion lie until to-morrow for consideration.

FRIDAY, December 18.

GEORGE WALTON, appointed a Senator of the United States by the Executive of the State of Georgia, in place of JAMES JACKSON, resigned,

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produced his credentials, and, the oath required by law being administered, he took his seat in the Senate.

The motion made yesterday, that the Secretary of War be requested to lay before the Senate an account of the expenditures in the late military operations against the insurgents, was resumed, and it was agreed that the consideration thereof be further postponed.

Mr. STRONG, from the committee appointed to inquire what business remained unfinished at the last session, which, in their opinion, it is proper should be taken into consideration at the present session, reported —

That the following bills originated in the Senate, and were postponed until the present Congress, or had only two readings, and remained unfinished, viz :

1. A bill authorizing the purchase of Indian goods.

2. A bill to punish frauds committed on the Bank of the United States.

3. A bill to regulate proceeding in cases of out-lawry.

4. A bill declaring the consent of Congress to an act of the State of Virginia, passed the 25th of December, 1794, for the support of a marine hospital.

5. A bill to authorize the holding of special Courts in certain cases.

Which bills, upon the motion of any member of the Senate, may be taken up at the present session.

The VICE PRESIDENT laid before the Senate the Report of the Commissioners of the Sinking Fund; which was read, as follows :

"The Commissioners of the Sinking Fund respectfully report to Congress:

"That, pursuant to the act, entitled 'An act supplementary to the act making provision for the Debt of the United States,' and in conformity to resolutions agreed upon by them, and severally approved by the President of the United States, they have caused purchases of the said Debt to be made, through the agency of Samuel Meredith, Esq., Treasurer of the United States, subsequent to their report, dated the 18th day November, 1794, to the amount of \$42,639 14, for which there have been paid, including a sum of \$160 allowed for commissions on purchases formerly made and reported, the sum of \$37,612 37, in specie.

"That the documents accompanying this report, marked A, B, C, show the aforesaid purchases generally and in detail, including the places where, the times when, the prices at which, and the persons of whom, the purchases were made.

"That the purchases now and heretofore reported amount, together, to \$2,307,661 71, for which there have been paid, in specie, \$1,618,936 04, as will more particularly appear from the document marked A.

"That there remains at this time in the hands of their said Agent, the sum of \$70,968 15, arising from dividends subsequent to the 1st day of April last, on stock heretofore purchased and redeemed, which sum, with the dividends to be made thereon at the close of the present year, and other funds appropriated by law, will be applied, on the 1st day of January ensuing, to the reimbursement of the six per cent. stock, bearing a present interest, pursuant to the directions contained

in the act, entitled 'An act making further provision for the support of Public Credit and for the redemption of the Public Debt.'

"On behalf of the Board,

"December 18, 1795.

JOHN ADAMS."

MONDAY, December 21.

The motion made on the 17th instant, "that the Secretary of War be requested to lay before the Senate an account of the expenditures in the late military operations against the insurgents," was withdrawn, and the following motion substituted :

"That the Secretary of War be requested to lay before the Senate a statement of the military force actually employed against the insurgents in the four Western counties of Pennsylvania, and an account of the expenditures in that expedition; showing, in particular, the periods of time for which the militia of the respective States drew pay; also, a list of the general and regimental staff, with the pay respectively received by them, and an account of the pay and disbursements of the Commander-in-Chief."

Ordered, That this motion lie for consideration.

TUESDAY, December 22.

The Senate took into consideration the motion made yesterday that the Secretary of War be requested to exhibit certain accounts of the expenditures for the militia employed against the insurgents in the four Western counties of Pennsylvania: Whereupon,

Resolved, That the Secretary of War be requested to lay before the Senate a statement of the military force actually employed against the insurgents in the four Western counties of Pennsylvania, and an account of the expenditures in that expedition; showing, in particular, the periods of time for which the militia of the respective States drew pay; also, a list of the general and regimental staff, with the pay respectively received by them, and an account of the pay and disbursements of the Commander-in-Chief.

Mr. BURR, from the committee to whom was referred the report from the Department of War, of the measures taken for opening a trade with the Indians, reported, "That, in the opinion of the committee, it will be expedient to appropriate a further sum for the purposes of Indian trade; and that a bill should be introduced for that purpose."

And, the report being adopted, the committee was directed to bring in a bill accordingly.

WEDNESDAY, December 23.

Mr. BURR, from the committee yesterday instructed to that purpose, reported a bill making provision for the purposes of trade with the Indians; which was read, and ordered to a second reading.

Ordered, That Messrs. ELLSWORTH, STRONG, and TAZEWELL, be a committee to prepare and report a bill to regulate proceedings in cases of outlawry.

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Ordered, That the Secretary for the Department of Treasury be requested to lay before the Senate returns of the imports and exports of the United States, similar to those heretofore exhibited, up to the latest periods to which he has received the accounts from the several districts, and commencing from the last returns made.

THURSDAY, December 24.

The bill making provision for the purposes of trade with the Indians, was read the second time; and, after debate, the further consideration thereof was postponed.

Ordered, by unanimous consent, that Mr. TAZEWELL have permission to introduce a bill declaring the consent of Congress to "An act of the State of Virginia, passed the 25th of December, 1794, for the support of a Marine Hospital;" which bill was read, and ordered to a second reading.

Mr. BUTLER reported, from the committee to whom was referred the petition of John Blanch, and the report was read, and ordered to lie for consideration.

MONDAY, December 28.

The bill declaring the consent of Congress to "An act of the State of Virginia passed the 25th of December, 1794, for the support of a Marine Hospital," was read a second time, and referred to Messrs. TAZEWELL, STRONG, and BINGHAM, to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill making provision for the purposes of trade with the Indians.

Ordered, That this bill be referred to Messrs. ELLSWORTH, TAZEWELL, BURR, ROSS, and BROWN, to consider and report thereon to the Senate.

TUESDAY, December 29.

The Senate resumed the consideration of the report of the committee on the petition of John Blanch; which is as follows:

"That, in their opinion, it will be proper to permit aliens, who are residents in the United States, to obtain an exclusive property in any useful art, machine, or manufacture, they may have invented, in case such aliens, before their application for such exclusive property, shall have taken an oath that it is their intention to become citizens of the United States, in the manner pointed out in the first section of the act, entitled 'An act to establish a uniform rule of naturalization, and to repeal the act heretofore passed on that subject;' and that a bill be brought in for that purpose."

On motion to amend the report, by adding, after the word "subject," the following words: "and, also, that he has not obtained a patent for such invention or improvement from any foreign Prince or State," it passed in the negative.

Ordered, That the report be adopted, and that the committee be instructed to bring in a bill accordingly.

WEDNESDAY, December 30.

The Senate assembled, but transacted no business.

THURSDAY, December 31.

The Senate assembled, and, in order to give the committees opportunity to perfect their reports, adjourned to 12 o'clock to-morrow.

FRIDAY, January 1, 1796.

Mr. ELLSWORTH, from the committee appointed for the purpose, reported a bill to regulate proceedings in cases of outlawry; which was read, and ordered to a second reading.

MONDAY, January 4.

The bill to regulate proceeding in cases of outlawry was read the second time, and its further consideration postponed until to-morrow.

The following Message was received from the PRESIDENT OF THE UNITED STATES, by Mr. Danbridge, his Secretary. Captain Sedam, of the first Sub-Legion, bearing the Colors mentioned in the Message:

*Gentlemen of the Senate, and
of the House of Representatives:*

A Letter from the Minister Plenipotentiary of the French Republic, received on the 22d of the last month, covered an Address, dated the 21st of October, 1794, from the Committee of Public Safety to the Representatives of the United States in Congress: and also informed me that he was instructed by the Committee to present to the United States the Colors of France. I therefore proposed to receive them last Friday, the first day of the new year, a day of general joy and congratulation. On that day the Minister of the French Republic delivered the Colors with an Address, to which I returned an answer. By the latter, the Senate will see that I have informed the Minister that the Colors will be deposited with the archives of the United States. But it seemed to me proper previously to exhibit to the two Houses of Congress these evidences of the continued friendship of the French Republic, together with the sentiments expressed by me on the occasion in behalf of the United States. They are herewith communicated.

G. WASHINGTON.

UNITED STATES, January 4, 1796.

The Message and papers were read; after which the Colors were withdrawn, and the Message and papers ordered to lie for consideration.

TUESDAY, January 5.

The Senate resumed the second reading of the bill to regulate proceedings in cases of outlawry, and proceeded to the consideration thereof in paragraphs; and, after progress, the bill was postponed until to-morrow.

PRESENTATION OF FRENCH FLAG.

A motion was made by Mr. TAZEWELL, seconded by Mr. LANGDON, that it be—

"Resolved, by the Senate of the United States in Congress assembled, That the President be informed the

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Senate have received, with the purest pleasure, the evidences of the continued friendship of the French Republic, which accompanied his Message of yesterday.

"That he be requested to assure that magnanimous nation, through the proper organ, that the Senate unite with him in all the feelings expressed to the Minister of France, on the presentation of the Colors of his Nation, and devoutly wish that this symbol of the triumphs and enfranchisement of that great people, given as a pledge of faithful friendship, and placed among the evidences and memorials of the freedom and independence of the United States, may contribute to cherish and perpetuate the sincere affection by which the two Republics are so happily united.

Mr. ELLSWORTH moved that these resolutions should lie on the table until to-morrow, that members should have an opportunity of perusing attentively the papers accompanying the Message of the PRESIDENT.

Mr. BUTLER said, that he should very reluctantly, in general cases, oppose a motion of the kind now made; but, on the present occasion, he could not give it his assent. If the resolutions were intricate, or by the question the judgment of the Senate could be committed, he should accord in the wish expressed by the mover; but, as the resolutions go merely to an expression of the sentiments of the House respecting the French Republic, their feelings and judgment must be as ripe for such expression now as they can be at any future period. It was not like a law that was to affect the Senate hereafter; it had nothing to do with the internal situation of the country or municipal regulations; but they only went to express a sympathetic feeling for the French Republic, and a wish to see them enjoy every happiness under the form of Government they have lately chosen.

This cannot commit the Senate, he conceived. If the motion for postponement prevailed, it might convey a distrust of the sense of the Senate respecting that Republic. He felt a lively sense towards that nation on account of the glorious cause in which they had embarked; of their gallantry and spirit in their arduous struggle to place men upon a footing they were entitled to, raising them from a state of the most abject and debasing slavery.

He declared himself always ready to express his feelings on the magnanimity of such a people. If other members of the Senate possessed not those feelings, they could now give the resolutions their negative. He did not wish for a postponement, as it might be viewed as in a manner slighting the Republic.

Mr. ELLSWORTH believed there was no real difference of opinion on the subject. All felt an ardent friendship for the French; but one mode of expressing it might be more proper than another. Besides, it might be a doubt whether an expression of the feelings of the Senate on this occasion was necessary—the Representatives had already spoken. He was not, as the member who spoke before him, ready on all occasions to express his sentiments; but only on fit occasions, and then he wished to do it in the most proper manner. The operations of his mind, he confessed, were

slow. He wished more time for the perusal of the documents laid before the Senate by the PRESIDENT.

Mr. LIVERMORE was also in favor of postponement.

Mr. LANGDON observed, that since members did so earnestly require time, he should not urge an immediate decision; he should no longer object to a postponement till to-morrow. He was happy to hear gentlemen say there was no difference of sentiment upon the present occasion; he hoped that, upon subjects relative to France, this might always be the case, and that the Senate would not confine itself to empty professions of attachment, but would evince it by substantial deeds.

Mr. TAZEVELL did not wish to press the business to an immediate decision, since members desired time. He confessed he did not expect a motion for a postponement would be made, as the resolutions he offered contained nothing more than the PRESIDENT had expressed on the occasion. However, if it was wished that the Senate should express their sentiments in still stronger language than the PRESIDENT, he should not object.

The opposition to the motion for postponement being withdrawn, it was agreed to.

WEDNESDAY, January 6.

The Senate resumed the consideration of the motion made yesterday on the Message of the PRESIDENT OF THE UNITED STATES, of the 4th instant, and the presentation of the flag of the French Republic; and,

On motion of Mr. CABOT, seconded by Mr. ELLSWORTH, to expunge these words from the second paragraph of the motion: "that he be requested to assure that magnanimous nation, through the proper organ"—

Mr. STRONG was in favor of striking out. He observed that the communication made to the Senate by the PRESIDENT consisted of two distinct parts, the letter from the French Committee of Safety and the address accompanying the flag. In the letter not one word was said about the flag; it was written in October, '94, and there was probably then no idea of sending one. The letter and the flag only happened to be delivered at the same time; there was no other connexion between them. The letter, he said, was in answer to one from this country, and was meant to close a complimentary correspondence. It required no answer; it would puzzle any one to make an answer to it. An attempt was made by the resolution offered, which proved it impossible to answer it. The resolution forsook the contents of the letter, which, he repeated, closed the correspondence. The United States had presented to the National Convention our flag; or rather our Minister (and he was unwilling to question the propriety of his so doing) presented it on behalf of this Government; a French flag was sent in return; then the propriety of an answer on this ground became the sole question. This flag had been delivered to the PRESIDENT, who made an

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answer on the presentation of it—a complete and perfect answer. He communicated his answer to the Senate. Then was it proper, he asked, that the Executive should be requested to make a second answer, and nearly in the same words? The PRESIDENT, in his answer, expressly says, that he speaks not only his own sentiments, but those of the citizens at large, including, no doubt, the Senate. In this situation of the transaction nothing can be proper to be done by the Senate but to express their opinion of the propriety of his answer; and this would be accomplished by adopting the substance of the resolution, after striking out the words proposed.

There could be (he concluded, by observing) no difference of feeling in the Senate on the occasion. The only difference was in the mode of expressing it, and he inclined, for the reasons given, to that which was the object of the motion for striking out.

Mr. ELLSWORTH was also of opinion that the subject divided itself into two distinct parts. The first object was an expression of the pleasure of the Senate at this new evidence of the friendship of France, and joining with the PRESIDENT in all the feelings he had expressed on the occasion. This would be effectually done by entering on the Journals the resolution as proposed to be amended. The PRESIDENT received the flag and answered, then communicated the transaction to the Senate.

It appeared, by the papers communicated, he contended, that there was no connexion between the letter of the Committee of Public Safety and the flag. He would not say that both were not very important transactions, but they were disconnected. The letter was written much antecedent to the sending of the flag—it was written in '94, and was intended to close a correspondence. The correspondence began by an address from the Convention, while Robespierre was an active member of it. This address was to Congress: the PRESIDENT transmitted it to each House, and they sent it back to the Executive, requesting he would answer it, with expressions of the friendly dispositions of the United States towards France. The resolutions of the Houses and the letter of the Executive were transmitted through Mr. Monroe. The letter now in the view of the Senate is in answer to that, and closes the complimentary correspondence, if it ever can close. Propriety did not require another word from the Senate; indeed, decency did not admit it, for it could not be contended that the correspondence should be kept up *ad infinitum*.

As to the flag, how can it require an answer from the Senate? It was not presented to them by the French Minister, but to the PRESIDENT, who had answered, not only for himself, but for the citizens of the United States; and he imagined it would not be contended that the members of the Senate were not citizens.

It is not advanced, he said, that the PRESIDENT did not express the sentiments of the Senate in the answer to the Minister; on the contrary, his words are borrowed in this resolution. But it is

wished he should answer again in the same strain, and this was, in his opinion, neither necessary nor even proper.

Mr. ELLSWORTH next combated the resolution as originally offered as unconstitutional. Nothing, he contended, could be found in the Constitution to authorize either branch of the Legislature to keep up any kind of correspondence with a foreign nation. To Congress were given the powers of legislation and the right of declaring war. If authority beyond this is assumed, however trifling the encroachment at first, where will it stop? It might be said, that this was a mere matter of ceremony and form, and, therefore, could do no harm. A correspondence with foreign nations was a business of difficulty and delicacy—the peace and tranquility of a country may hinge on it. Shall the Senate, because they may think it in one case trifling, or conceive the power ought to be placed in them, assume it? If it was not specially delegated by the Constitution, the Senate might, perhaps, but it is positively placed in the hands of the Executive. The people who sent us here, (said Mr. E.,) placed their confidence in the PRESIDENT in matters of this nature, and it does not belong to the Senate to assume it.

So forcibly, he said, were both Houses impressed with the impropriety of the Legislature corresponding with any foreign Power, that, when it was announced to them that the unfortunate Louis XVI. had accepted the Constitution of '89, the communication was sent back to the PRESIDENT, with a request that he would answer it on their behalf, with congratulations and best wishes.

But even this, he considered, they had not strictly a right to do. It was only saving appearances. Neither branch had a right to dictate to the PRESIDENT what he should answer. The Constitution left the whole business in his breast. It was wrong to place him in the dilemma of disobliging the Legislature or sacrificing his own discretion. But if such practices had inadvertently been followed, it was full time to recede from them.

He recapitulated, in a few words, and concluded, by observing, that should the motion for striking out prevail, members would still be in order to amend the resolution, if they chose, by adding to the warmth of expression it already contained.

Mr. BUTLER considered the situation into which the member up before him seemed desirous that the Senate should be placed, as highly degrading; they were to be deprived of the right of expressing their own sentiments, they were to have no voice, no will, no opinion of their own, but such as it would please the Executive to express for them.

The only fault he found in the resolve was, that it was not full and expressive enough. He observed, that it appeared the studied desire of one part of the House to cut off all communication between the people of the United States and the people of the French Republic. Their representatives are now told, that they can have no will, no voice, but through the Executive. Their constituents never intended that they should be placed in this

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ridiculous point of view, and he declared he never could sit under it silently.

He turned to the Journals of the Senate to show that in the proceedings in the case of the answer to the communication from Robespierre and others, there was a considerable division in the Senate, and the mode adopted was by a majority only; but did not meet the sense of the Senate very generally.

Upon the presentation of the flag to the PRESIDENT, the Minister particularly observes, that it is for the people of the United States. The PRESIDENT in his answer, speaks of himself and his own feelings. He read part of his answer—"Born in a land of Liberty," &c. He does intimate, he observed, in a cursory manner, that he trusts he speaks the sentiments of his fellow-citizens: but does not attempt to make any professions of either branch of the Legislature, thinking, no doubt, that when the subject came before them, they would speak for themselves.

Suppose, he asked, that the expression of friendship contained in the PRESIDENT's Address on the occasion, fell short of the feelings of the Senate, would they, he asked, adopt the expressions for their own? For his own part, he declared, he could not leave it to others to speak his sentiments, but chose to reserve that right to himself. Even if no communication had been received from the French Republic, no token of attachment, the present period in their affairs, the establishment of a new Government, would warrant an address of congratulation. There could be no impropriety in it, unless there were objections to drawing nigher to the Republic. Besides, the address of the Committee of Safety, was certainly intended for the Legislature, being directed to the Representatives, unless it could be denied that the Senate were Representatives of the people of the United States.

There was nothing in the Constitution, he contended, that could prevent the Legislature from expressing their sentiments: it was not an Executive act, but a mere complimentary answer to a complimentary presentation. If this right was denied them, where would the principle stop, the Senate might be made in time mere automata. It was as proper, he contended, for the Senate to express an opinion on the occasion as for the PRESIDENT or House of Representatives.

He concluded by observing, that the resolution as offered, said as little as could be said on the occasion, and he never could consent to the striking out, which would cause it to be entered only on the Journal, and would be an indirect slight of the French Republic, as the sentiments of the Senate would not be communicated to them.

Mr. TAZEWELL was happy to find no difference in the Senate as to the substance of the resolution. As the form, however, had been made matter of debate, some importance had been given to it which its intrinsic consequence perhaps did not deserve, and it became the Senate to weigh well their decision. It certainly, he said, could not be unknown to the Senate, that unfavorable impressions had travelled abroad respecting their feelings

and sentiments towards the French, and he suggested to their consideration whether if the present motion for striking out prevailed, even in the face of their own precedents, it would not give countenance to the surmise. On a former occasion he stated a communication was made to the Senate through the PRESIDENT, informing that the King of France had accepted the Crown under the Constitution of 1789. The Senate were not content on that occasion with barely approving what the PRESIDENT had done, but requested the PRESIDENT to say in their behalf, that they were happy at the event, and to assure the King, of their good will for the prosperity of the French nation and his own. What difference, he asked, was there on that occasion and the present, when the French just adopted and organized a new Government? Will it not be said, he asked, that the robes of royalty have charms with the Senate, which the humble habiliments of Democracy do not possess in their eyes, if on the present occasion they should deviate from a precedent established before royalty was abolished? This would be naturally implied, and the Senate, he conceived, should avoid the imputation. There was no necessity pleaded in favor of striking out, if the motion was not insisted on, it would remove impressions which it was useful should be removed, and which he trusted would be removed.

He dwelt on the impropriety of the Senate's rejecting a form of proceeding in this case, not only sanctioned by their own precedent, but by the practice of both the PRESIDENT and Senate. Why, especially, he asked, should they give rise to invidious comparisons between themselves and the other branch? He hoped the motion for striking out would not prevail.

Mr. ELLSWORTH conceived there existed a material difference between the present case and that cited by the member last up. The communication was then to Congress, now to the PRESIDENT, who had only given an account of the transaction to the Senate. He added, however, that the line of conduct pursued by the Senate on the former occasion did not meet his approbation; they expressed hopes which he never thought could be realized, and in the event it proved so; for before the sentiments of the Senate could cross the Atlantic, the unfortunate King and Constitution were both overthrown. This, he argued, should make the Senate wary in their proceedings in analogous cases. Upon the communication from Robespierre, Barrere, and others, the Senate were more cautious, they said nothing about the Constitution, but only requested the PRESIDENT to express in their behalf the sentiments of friendship, &c., which the Senate entertained for France. The Senate gave the PRESIDENT a short text on that occasion; and he wrote according to his own discretion, and perhaps expressed more than the Senate would have said. If a short text was given this objection occurred; if the Senate amplified, then they dictated improperly to the PRESIDENT what he should write.

The example of the House of Representatives had been mentioned; he conceived it was no rule

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Presentation of the Colors of France.

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of proceeding for the Senate. The fact was, that the resolve carried in that House was upon a very slight view indeed of the papers communicated. Indeed, it would appear upon the face of it, that it was penned before the papers were read. This was, in his opinion, no example for imitation; the Senate ought to proceed with their usual deliberation.

It had been said that doubts had gone abroad, whether the Senate were friendly to France. Those doubts had been raised by writers among us, the same who also endeavor to convince the Americans that the friendship of France towards them was not cordial. This must appear unfounded from the proceeding now the object of debate, and the former suspicion must be removed by an insertion of the substance of the resolution now before the Senate on their Journals.

Mr. TAZEWELL said a few words to show that there was no difference between the case he had already cited, the proceeding of the Senate, when they expressed their satisfaction at the manner in which the National Convention had honored the memory of BENJAMIN FRANKLIN, and the present case.

Mr. ROSS differed. In the former instances, the PRESIDENT made the original communications to the Senate before he had answered them; now he has answered and only communicates an account of the transaction.

Mr. BURR was against striking out. The National Convention, he observed, might, when they received the answer to the first communication, have said, as is now said on the floor of the Senate, that the correspondence there ended, and that it was not necessary to make us a reply; but they acted differently, and he hoped the Senate would acknowledge the receipt of their pledge of friendship. Indeed, he said, he could not see that any great harm would arise in the two branches of the Legislature interchanging even once a year a letter of friendship and good will with the Republic. It was objected that the present resolution was no answer to the letter. A few lines would make it so, and they might easily be added. The omission did not prove, as had been asserted by one member, that it was impossible to answer it. That it was not impossible was testified by the proceedings of the other branch. He did not intend to slight the dignity of the Senate, however, he said, by quoting the proceedings of the other House as a binding rule of proceeding for this; but their proceedings certainly proved the possibility of making an answer; and besides, there was full as much propriety in looking for precedents in their conduct, as in the proceedings of a British Parliament. Each, however, in their place might deserve weight though not implicit reliance.

He advocated the rights of the Senate to answer for themselves, and the propriety of acknowledging the receipt of the Colors, which were not sent to the Executive exclusively.

He concluded by citing the Senate's own precedents in analogous cases, and he hoped, that it would not be insisted that the practice of two or three successive years deserved to be laid to the charge of inadvertency.

After a few words more from Messrs. STRONG, BURR, REED, and BUTLER, the yeas and nays were called upon striking out, which were taken and stood—yeas 16, nays 8, as follows:

YEAS.—Messrs. Bingham, Bradford, Cabot, Ellsworth, Foster, Gunn, Latimer, Livermore, Marshall, Paine, Reed, Ross, Rutherford, Strong, Trumbull, and Walton.

NAYS.—Messrs. Bloodworth, Brown, Burr, Butler, Langdon, Martin, Robinson, and Tazewell.

Whereupon, it was

Resolved, unanimously, that the PRESIDENT be informed that the Senate have received, with the purest pleasure, the evidences of the continued friendship of the French Republic, which accompanied his Message of the 4th inst.

That the Senate unite with him in all the feelings expressed to the Minister of France on the presentation of the Colors of his nation, and devoutly wish that this symbol of the triumphs and enfranchisement of that great people, given as a pledge of faithful friendship, and placed among the evidences and memorials of the freedom and independence of the United States, may contribute to cherish and perpetuate the sincere affection by which the two Republics are so happily united.

Ordered, That the Secretary lay this resolution before the PRESIDENT OF THE UNITED STATES.

THURSDAY, January 7.

The Senate resumed the second reading of the bill to regulate proceedings in cases of outlawry, in paragraphs; and, after consideration, the bill was further postponed.

FRIDAY, January 8.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
of the House of Representatives:*

I transmit to you a memorial of the Commissioners appointed by virtue of an act, entitled "An act for establishing the temporary and permanent Seat of the Government of the United States," on the subject of the public buildings under their direction.

Since locating a district for the permanent Seat of the Government of the United States, as heretofore announced to both Houses of Congress, I have accepted the grants of money and of land stated in the memorial of the Commissioners. I have directed the buildings therein mentioned to be commenced, on plans which I deemed consistent with the liberality of the grants and proper for the purposes intended.

I have not been inattentive to this important business intrusted by the Legislature to my care. I have viewed the resources placed in my hands, and observed the manner in which they have been applied: the progress is pretty fully detailed in the memorial from the Commissioners; and one of them attends to give further information if required. In a case new and arduous, like the present, difficulties might naturally be expected: some have occurred; but they are in a great degree surmounted; and I have no doubt, if the remaining resources are properly cherished, so as to prevent the loss of property by hasty and numerous

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sales, that all the buildings required for the accommodation of the Government of the United States may be completed in season, without aid from the Federal Treasury. The subject is therefore recommended to the consideration of Congress, and the result will determine the measures which I shall cause to be pursued with respect to the property remaining unsold.

G. WASHINGTON.

UNITED STATES, January 8, 1796.

The Message and memorial therein referred to were read, and ordered to lie for consideration.

The Senate resumed the second reading of the bill to regulate proceedings in cases of outlawry, and, after progress, the further consideration thereof was postponed.

The PRESIDENT laid before the Senate a Letter from Samuel Meredith, Treasurer of the United States, together with his specie account for the quarter ending the 30th December, 1795; which were read, and ordered to lie on the table.

MONDAY, January 11.

RICHARD POTTS, from Maryland, attended.

The VICE PRESIDENT laid before the Senate a communication from the Secretary for the Department of Treasury, in consequence of the order of the 28d of December last, with a return (marked A) of the exports of the United States, supplemental to that transmitted on the 26th of February, 1795, which completes the returns of exports to the 30th of September, 1794:

A statement (marked B) showing the specific articles imported into the United States in each calendar year, commencing with the establishment of the revenue, and ending on the 30th of December, 1794; and

An abstract (marked C) containing a list of the articles of merchandise enumerated in the laws of the United States, as being subject to ad valorem rates of duty, prior to the year 1795; which papers were read.

Ordered, That they lie for consideration.

The Senate resumed the second reading of the bill to regulate proceedings in cases of outlawry, and, after agreeing to sundry amendments, the bill was ordered to a third reading.

TUESDAY, January 12.

The bill to regulate proceedings in cases of outlawry, was read the third time, and passed.

WEDNESDAY, January 13.

MR. BUTLER, from the committee instructed to that purpose, reported a bill to amend an act, entitled "An act to promote the progress of Useful Arts, and to repeal the act heretofore made for that purpose;" which was read and ordered to a second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
of the House of Representatives:*

I lay before you an official statement of the expenditure to the end of the year 1795, from the sums here-

tofore granted to defray the contingent charges of the Government.

G. WASHINGTON.

UNITED STATES, January 13, 1796.

The Message and statement were read, and ordered to lie for consideration.

Ordered, That MESSRS. READ, ELLSWORTH, ROSS, STRONG, and LIVERMORE, be a committee to revise the Judiciary system of the United States, and to report what alterations or amendments may be necessary in the same.

THURSDAY, January 14.

The bill to amend an act, entitled "An act to promote the progress of Useful Arts, and to repeal the act heretofore made for that purpose," was read the second time, and the further consideration thereof postponed until to-morrow.

FRIDAY, January 15.

The Senate resumed the consideration of the bill to amend the act, entitled "An act to promote the progress of Useful Arts, and to repeal the act heretofore made for that purpose."

Ordered, That the further consideration thereof be postponed to Monday next.

MONDAY, January 18.

The Senate resumed the second reading of the bill to amend the act, entitled "An act to promote the progress of Useful Arts, and to repeal the act heretofore made for that purpose," and having agreed to the first paragraph thereof, the bill was ordered to a third reading.

The VICE PRESIDENT laid before the Senate a Report of the Secretary for the Department of War, on the state of the fortifications, which was read and ordered to lie for consideration.

TUESDAY, January 19.

The bill to amend the act, entitled "An act to promote the progress of Useful Arts, and to repeal the act heretofore made for that purpose," was read the third time.

On motion to amend the bill, by subjoining the following proviso:

"That such alien or aliens before he, she, or they, shall obtain such letters patent, shall take an oath, before the Secretary of State, that such invention has not been published and used, so far as his, her, or their knowledge extends, in any foreign country; and that he, she, or they, have not obtained letters patent for the same from any foreign Power:"

It passed in the negative.

On the question to agree to the bill, it passed in the affirmative—yeas 12, nays 11, as follows:

YEAS—MESSRS. Bloodworth, Burr, Butler, Ellsworth, Frelinghuysen, Langdon, Marshall, Martin, Potts, Read, Robinson, and Rutherford.

NAYS—MESSRS. Bingham, Bradford, Brown, Cabot, Henry, Latimer, Livermore, Paine, Strong, Trumbull, and Walton.

So the bill was passed.

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WEDNESDAY, January 20.

No business was transacted in the Senate to-day.

THURSDAY, January 21.

Mr. KING attended to-day.

Ordered, That MESSRS. ELLSWORTH, BROWN, and BRADFORD, be a committee to inquire what laws will expire before the next session of Congress, and report thereon to the Senate.

Mr. ELLSWORTH reported, from the committee appointed to consider the bill making provision for the purposes of trade with the Indians, that the bill pass without amendment.

Ordered, That this bill lie on the table.

FRIDAY, January 22.

Mr. ELLSWORTH, from the committee appointed yesterday, to inquire what laws will expire before the next meeting of Congress, reported the following:

The "Act for allowing compensation to the members of the Senate and House of Representatives of the United States and to the officers of both Houses;" passed September 22d, 1789.

The "Act declaring the consent of Congress to a certain act of the State of Maryland, and to continue, for a longer time, an act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations, so far as the same respects the States of Georgia, and Rhode Island and Providence Plantations," passed March 10th, 1793.

The "Act to regulate trade and intercourse with the Indian tribes;" passed March 1, 1793.

The "Act making further provision for the expenses attending the intercourse of the United States with foreign nations; and further to continue in force the act, entitled, 'An act providing the means of intercourse between the United States and foreign nations,'" passed March 20th, 1794.

The "Act directing a detachment from the militia of the United States;" passed May 9th, 1794.

And the "Act to continue in force for a limited time the acts therein mentioned;" passed March 2, 1795.

The provisions of the "Act to regulate the compensation of clerks," extended only to the 31st of December last; passed March 3, 1795.

The report was read, and ordered to lie for consideration.

MONDAY, January 25.

A message from the House of Representatives informed the Senate that the House had passed a bill, entitled "An act making appropriations for the support of Government for the year one thousand seven hundred and ninety-six;" in which they desire the concurrence of the Senate.

The bill was read, and ordered to a second reading.

The VICE PRESIDENT laid before the Senate a

Letter from the Secretary for the Department of Treasury, with a statement from the Commissioner of the Revenue, of the exports of the United States, to the 30th of September, 1795, which were read, and ordered to lie for consideration.

TUESDAY, January 26.

The bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of Government, for the year one thousand seven hundred and ninety-six," was read the second time, and referred to MESSRS. RUTHERFORD, ELLSWORTH, and CABOT, to consider and report thereon to the Senate.

WEDNESDAY, January 27.

On motion,

"That the proper officer be directed to furnish Senate with an accurate return of the imports and exports into and from the United States, from the period to which the last returns were made, and, in a similar manner, to the latest period to which returns are made by the different districts."

It was agreed that this motion should lie until to-morrow for consideration.

THURSDAY, January 28.

Mr. RUTHERFORD, from the committee appointed to take into consideration the bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of Government, for the year one thousand seven hundred and ninety-six," reported amendments, which were in part adopted; and the consideration of that part of the bill which respects the appropriations for the Mint was postponed until to-morrow.

The Senate resumed the consideration of the motion made yesterday, for a return of the exports and imports of the United States, which was amended, by inserting "Secretary of the Treasury," in lieu of "proper officer."

Ordered, That the further consideration of this motion be postponed until Monday next.

FRIDAY, January 29.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of Government, for the year one thousand seven hundred and ninety-six," and, having agreed to the amendments reported by the committee, the bill was ordered to a third reading.

The following Messages were received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
of the House of Representatives:*

In pursuance of the authority vested in the President of the United States, by an act of Congress passed the third of March last, to reduce the weight of the copper coin of the United States, whenever he should think it for the

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benefit of the United States, provided that the reduction should not exceed two pennyweights in each cent, and in the like proportion in a half cent, I have caused the same to be reduced, since the twenty-seventh of last December; to wit, one pennyweight and sixteen grains in each cent, and in the like proportion in a half cent, and I have given notice thereof by proclamation.

By the Letter of the Judges of the Circuit Court of the United States held at Boston in June last, and the enclosed application of the under-keeper of the jail at that place—of which copies are herewith transmitted—Congress will perceive the necessity of making a suitable provision for the maintenance of prisoners committed to the jails of the several States, under the authority of the United States.

G. WASHINGTON.

UNITED STATES, January 29, 1796.

*Gentlemen of the Senate, and
of the House of Representatives :*

I send herewith, for the information of Congress—

1. An Act of the Legislature of the State of Rhode Island, ratifying an amendment to the Constitution of the United States, to prevent suits in certain cases against a State.

2. An Act of the State of North Carolina, making the like ratification.

3. An Act of the State of North Carolina, assenting to the purchase, by the United States, of a sufficient quantity of land on Shell Castle Island, for the purpose of erecting a beacon thereon, and ceding the jurisdiction thereof to the United States.

4. A copy from the journal of proceedings of the Governor, in his Executive Department, of the Territory of the United States Northwest of the river Ohio, from July 1, to December 31, 1794.

5. A copy from the records of the Executive proceedings of the same Governor, from January 1, to July 30, 1795; and

6 and 7. A copy of the journal of the proceedings of the Governor, in his Executive Department, of the Territory of the United States South of the river Ohio, from September 1, 1794, to September 1, 1795.

8. The Acts of the 1st and 2d sessions of the General Assembly of the same Territory.

G. WASHINGTON.

UNITED STATES, January 29, 1796.

Ordered, That the last recited Messages of the PRESIDENT OF THE UNITED STATES, with the papers therein mentioned, be severally referred to Messrs. LIVERMORE, WALTON, and MARSHALL, to consider and report thereon to the Senate.

Mr. CABOT presented the petition of Jose Roiz Silva, praying that the officers of the revenue for the State of New York may be authorized to refund him two thousand five hundred and twenty-one dollars, overrated duties, on a cargo of Graciosa wines, imported in the brigantine Mary, in June, 1793.

The petition was read, and ordered to lie on the table.

MONDAY, February 1.

The bill sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of Government, for the year one thousand seven hundred and ninety-six," was read the third time and passed.

The Senate resumed the consideration of the motion made on the 27th of January last, that the Secretary of the Treasury make a return of imports and exports; and, on motion, permission was given to withdraw the motion, for the purpose of substituting the following:

"That the Secretary of the Treasury be directed to furnish, for the use of the Senate, a statement of the imports into the United States, from the 30th of September, 1791, to the latest period to which he may have received returns from the different districts; specifying therein, as particularly as the returns admit of, the articles imported; the cost thereof, and the countries from which they have been imported; together with the tonnage employed in the import trade, and the Kingdoms or States to which the vessels belong."

On motion, it was agreed that this motion should be referred to Messrs. KING, BUTLER, ELLSWORTH, CABOT, and LANGDON, to consider and report thereon to the Senate.

TUESDAY, February 2.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for establishing trading houses with the Indian tribes," in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to a second reading.

The VICE PRESIDENT laid before the Senate a Letter from the Secretary of the Department of War, in reference to the order of Senate of the 22d December last, respecting the expenditures on the expedition against the insurgents in the four Western counties of Pennsylvania.

Ordered, That it lie for consideration.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
of the House of Representatives :*

I transmit herewith the copy of a Letter, dated the 19th of December last, from Governor Blount to the Secretary of War, stating the avowed and daring designs of certain persons to take possession of lands belonging to the Cherokees, and which the United States have, by treaty, solemnly guaranteed to that nation. The injustice of such intrusions, and the mischievous consequences which must necessarily result therefrom, demand that effectual provision be made to prevent them.

G. WASHINGTON.

UNITED STATES, February 2, 1796.

The Message and Letter were read, and ordered to lie for consideration.

WEDNESDAY, February 3.

The bill sent from the House of Representatives for concurrence, entitled "An act for establishing trading houses with the Indian tribes," was read the second time; and, after consideration, the bill was postponed until to-morrow.

THURSDAY, February 4.

The Senate resumed the second reading, and consideration in paragraphs, of the bill, sent from

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he House of Representatives for concurrence, entitled "An act for establishing trading houses with the Indian tribes;" and, having amended the same, the bill was ordered to a third reading.

Mr. BUTLER presented the petition of John Howell, commander of the revenue cutter of the United States for the port of Savannah, and the coasts of the State aforesaid, which was read, praying that he, and the other commanders of the revenue cutters, may be placed on the full Naval Establishment.

Ordered, That it be referred to Messrs. BUTLER, LANGDON, and WALTON, to consider and report thereon to the Senate.

FRIDAY, February 5.

The bill, sent from the House of Representatives for concurrence, entitled "An act for establishing trading houses with the Indian tribes," was read the third time; and on motion, it was agreed to expunge the 5th section, which is as follows:

"And be it further enacted, That six thousand dollars be appropriated, under the direction of the President of the United States, for the purpose of paying the agents and clerks; which agents shall be allowed to draw out of the public supplies two rations each, and each clerk, one ration per day."

On motion, it was agreed to amend the last section, by adding, after the word "years," the words, "and to the end of the next session of Congress thereafter."

On motion, to add, after the word "aforementioned," section 6, these words, "and to defray all salaries, commissions, and charges, attending the same," it passed in the negative.

On motion, to amend the proviso, in the 7th section, by adding, after the word "reside," these words, "or be found," it passed in the negative.

On motion, it was agreed to commit the bill to Messrs. ROSS, KING, and MASON, to consider generally, and report thereon to the Senate.

Ordered, That the Message of the PRESIDENT OF THE UNITED STATES, of the 29th of January, with a copy of a Letter from the Judges of the District Court, held at Boston in June last, together with the application from the under-keeper of the jail there, be referred to the committee appointed to consider the petition of Jeremiah Allen.

The VICE PRESIDENT laid before the Senate a Letter from the Treasurer of the United States, with his account of receipts and expenditures in the War Department, for the quarter ending the 31st of December last.

The Letter was read, and ordered to lie on the table.

The VICE PRESIDENT laid before the Senate, from the Secretary for the Department of War, a return of invalid pensioners.

Ordered, That it lie on the table.

MONDAY, February 8.

Mr. LIVERMORE, from the committee to whom was referred the memorial of Jeremiah Allen, Sheriff of the County of Suffolk, in the State of Massachusetts, reported:

"That the petitioner prays for a law to be passed relative to the support of prisoners in jail, committed under the authority of the United States, in order to indemnify the sheriff or keeper of the jail for their cost and expenses in such support. The committee have considered the subject, and examined the laws relative thereto, and are of the opinion that the existing laws are sufficient for the purpose aforesaid; and, therefore, that the memorialist have leave to withdraw his memorial."

And the report was adopted.

TUESDAY, February 9.

Mr. ROSS presented the memorial of Thomas Leiper & Co., and others, manufacturers of Snuff, stating the discouragements they meet with in the prosecution of the business, and praying an entire repeal of the existing excise upon that article; which was read, and ordered to lie on the table.

WEDNESDAY, February 10.

Ordered, That the memorial of Thomas Leiper & Co., and others, manufacturers of snuff, be referred to Messrs. READ, BLOODWORTH, and LIVERMORE, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act further extending the time for receiving on Loan the Domestic Debt of the United States;" in which they desire the concurrence of the Senate.

This bill was read, and ordered to a second reading.

Mr. KING reported, from the committee appointed the first of February, on the motion that the Secretary of the Treasury make return of imports and exports; and the report was adopted. Whereupon,

Resolved, That the Secretary of the Treasury do cause to be annually prepared, and reported to the Senate in the month of January in each year:

A statement of the tonnage of the ships and vessels employed in the trade of the United States for one year, ending the first of October preceding such report; distinguishing the foreign from the domestic tonnage, and the quantity belonging to each foreign nation; distinguishing, also, the domestic tonnage employed in foreign trade, from that engaged in the coasting trade and fisheries;

Also, a statement of the quantity and estimated value of the exports of the United States, for the like time of one year, showing the amount exported to each foreign nation;

Also, a statement of the goods, wares, and merchandise, imported into the United States, for the like term of one year, distinguishing, in classes, those which pay an ad valorem duty from those denominated enumerated articles, showing the value of the former, and the quantity of the latter; and showing, also, the amount of each imported from each foreign nation.

Mr. ROSS, from the committee to whom was referred the bill, entitled "An act for establishing trading houses with the Indian tribes," reported

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sundry amendments, which were read; and, after debate, the further consideration thereof was postponed until to-morrow.

THURSDAY, February 11.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled, "An act establishing trading houses with the Indian tribes;" which was in part adopted as follows:

Sec. 3, line 9, strike out "of this act," and insert "aforesaid." Line 10, after the word "shall," insert "upon conviction thereof." Same line, strike out the words, "a sum not exceeding." Line 11, strike out the words "upon conviction thereof." Line 13, after "United States," strike out the remainder of the section.

Make a new section, as follows:

"Sec. 5 *And be it further enacted*, That offenders against this act may be prosecuted in the Circuit or District Courts of the United States, or in the Supreme or Superior Courts of the Territories of the United States, or in any State Court having jurisdiction over like offences; although the misdemeanor shall not have been committed within the bounds of their district or ordinary jurisdiction. And all forfeitures accruing under this act shall be one half to the use of the informant, and the other half to the use of the United States; except where the prosecution shall be first instituted by a public prosecutor, on behalf of the United States, in which case, the whole shall be to their use."

The bill was amended, agreeably to the above recited report.

On motion, it was agreed to expunge the 7th section of the bill.

On motion, it was agreed to add these words to the end of the new section reported by the committee:

"And it shall be the duty of the superintendents of Indian affairs, and their deputies, respectively, to whom information of every such offence shall be given, to collect the requisite evidence, if attainable, and prosecute the offender without delay."

On motion, to reduce the appropriation, from one hundred and fifty thousand dollars to one hundred thousand dollars, it passed in the negative.

On motion, to substitute the following in lieu of the 4th section:

"*And be it further enacted*, That it shall be lawful for the President of the United States to apply, of the moneys hereinafter appropriated, such sum as he may judge to be necessary, not exceeding the rate of ten thousand dollars per annum, for the compensation of the agents, and also of their clerks, where he shall authorize the employment of clerks; which agents shall be allowed to draw out of the public supplies two rations, and each clerk one ration per day."

It passed in the negative.

On motion, it was agreed to expunge, from section 3d, these words: "is provided by this act;" and, in lieu thereof, insert, "shall be authorized by the PRESIDENT OF THE UNITED STATES."

Whereupon, *Resolved*, That this bill pass as amended.

FRIDAY, February 12.

Mr. LANGDON presented the petition of Hopely Yeaton, commander of the revenue cutter called the Scammel, praying an allowance of rations and wages during the time he superintended the building and fitting out said cutter; which was read.

Ordered, That it be referred to the committee appointed the 4th instant, on the petition of John Howell.

Ordered, That Messrs. LANGDON, ELLSWORTH, and GUNN, be a committee to report a bill to regulate the compensation of clerks.

Mr. Ross presented the memorial of the clerks under the Government of the United States, who remained in the city of Philadelphia, and attended to the duties of their station, during the prevalence of the yellow fever; which was read and referred to Messrs. Ross, BRADFORD, and LIVERMORE, to consider and report thereon to the Senate.

MONDAY, February 15.

The bill sent from the House of Representatives for concurrence, entitled "An act further extending the time for receiving on Loan the Domestic Debt of the United States," was read the second time, and ordered to a third reading.

Mr. LANGDON, from the committee appointed for the purpose, reported a bill to regulate the compensation of clerks; which was read and ordered to a second reading.

TUESDAY, February 16.

The bill to regulate the compensation of clerks was read the second time, and ordered to a third reading.

The bill, sent from the House of Representatives for concurrence, entitled, "An act further extending the time for receiving on Loan the Domestic Debt of the United States," was read the third time, and passed.

WEDNESDAY, February 17.

The bill to regulate the compensation of clerks was taken into consideration, and the third reading of the bill was postponed.

Ordered, That Messrs. STRONG, POTTS, and WALTON, be a committee to consider the expediency of amending "the act for the relief of persons imprisoned for debt," and, if they think proper, to report a bill for that purpose.

THURSDAY, February 18.

After receiving the report of the Committee on Enrolled Bills, the Senate went into consideration of the Executive business.

FRIDAY, February 19.

On motion, that the bill to regulate the compensation of clerks be recommitted, it was agreed to refer it to a special committee, and Messrs

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CABOT, ELLSWORTH, and ROSS, were appointed thereon.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled, "An act for the relief of certain officers and soldiers who have been wounded or disabled in the actual service of the United States;" also, a bill, entitled "An act for the relief of Benjamin Strother;" to which bills, respectively, they desire the concurrence of the Senate.

The bills last brought from the House of Representatives for concurrence were severally read, and ordered to a second reading.

MONDAY, February 22.

The bill sent from the House of Representatives for concurrence, entitled "An act for the relief of Benjamin Strother," was read the second time, and referred to Messrs. LIVERMORE, PAINE, and LANGDON, to consider and report thereon to the Senate.

The bill sent from the House of Representatives for concurrence, entitled "An act for the relief of certain officers and soldiers who have been wounded or disabled in the actual service of the United States," was read the second time, and referred to Messrs. ELLSWORTH, STRONG, and FOSTER, to consider and report thereon to the Senate.

TUESDAY, February 23.

Mr. LIVERMORE, from the committee to whom was referred the bill sent from the House of Representatives for concurrence, entitled "An act for the relief of Benjamin Strother," reported, that the bill pass without amendment, and the report was adopted. And, by unanimous consent, the rule was dispensed with, and the bill read the third time and passed.

WEDNESDAY, February 24.

Mr. STRONG presented the petition of Rufus Putnam and others, in behalf of the Ohio Company, praying for Legislative aid in making use of the reserved rights; which was read and referred to Messrs. BROWN, CABOT, and ROSS, to consider and report thereon to the Senate.

THURSDAY, February 25.

The Senate assembled, and, after the consideration of the Executive business, adjourned.

FRIDAY, February 26.

The VICE PRESIDENT laid before the Senate a Letter from the Governor of the State of Kentucky, with divers papers accompanying the same.

The Letter and papers therein referred to were read, and ordered to lie on the table.

Mr. STRONG, from the committee appointed for that purpose, on the 17th instant, reported a bill for the relief of persons imprisoned for debt; which was read the first time, and ordered to a second reading on Tuesday next.

The VICE PRESIDENT laid before the Senate a Letter from Samuel Meredith, Treasurer, accompanied by his account of expenditures in the quarter ending the 31st of December last, which was read.

Ordered, That the Letter and account lie for consideration.

MONDAY, February 29.

On motion, by Mr. MARSHALL,

"That the Letter from the Governor of the State of Kentucky, with divers papers accompanying the same, communicated to the Senate on the 26th instant, be referred to a committee."

It was agreed to postpone the consideration of the motion until to-morrow.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "an act for allowing compensation to the members of the Senate and House of Representatives of the United States, and to certain officers of both Houses;" a bill, entitled "An act for the relief of Jose Roiz Silva;" a bill, entitled "An act providing relief, for a limited time, in certain cases of invalid registers;" and a bill, entitled "An act for the relief of Israel Loring;" in which several bills they desire the concurrence of the Senate.

The bills last mentioned were severally read, and ordered to a second reading.

TUESDAY, March 1.

The bill sent from the House of Representatives for concurrence, entitled "An act for the relief of Israel Loring," was read the second time, and referred to Messrs. STRONG, LANGDON, and LIVERMORE, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for allowing compensation to the members of the Senate and House of Representatives of the United States, and to certain officers of both Houses," was read the second time, and the consideration thereof postponed.

The bill for the relief of persons imprisoned for debt, was read a second time; and, after debate, it was agreed to postpone the further consideration of this bill.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
of the House of Representatives:*

The Treaty of Amity, Commerce, and Navigation, concluded between the United States of America and His Britannic Majesty, having been duly ratified, and the ratifications having been exchanged at London on the 28th day of October, 1795, I have directed the same to be promulgated; and herewith transmit a copy thereof for the information of Congress.

G. WASHINGTON.

UNITED STATES, March 1, 1796.

The Message was read, and ordered to lie on the table.

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WEDNESDAY, March 2.

Mr. STRONG, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Israel Loring," reported that the bill pass without amendment. And, by unanimous consent, the rule was dispensed with, and the bill was read the third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act providing relief, for a limited time, in certain cases of invalid registers," was read the second time, and ordered to a third reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Jose Roiz Silva," was read the second time, and referred to Messrs. KING, ELLSWORTH, and BRADFORD, to consider and report thereon to the Senate.

The Senate resumed the consideration of the motion, made on the 29th of February, respecting the Letter and papers from the Governor of the State of Kentucky; and

Ordered, That they be referred to Messrs. LIVERMORE, ROSS, KING, RUTHERFURD, and STRONG, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House agree to some, and disagree to other amendments of the Senate to the bill, entitled "An act for establishing trading houses with the Indian tribes."

THURSDAY, March 3.

Mr. BURR attended to-day.

The Senate proceeded to the consideration of their amendments disagreed to by the House of Representatives, to the bill, entitled "An act for establishing trading houses with the Indian tribes."

Resolved, That they insist on their said amendments.

The bill, sent from the House of Representatives for concurrence, entitled "An act providing relief, for a limited time, in certain cases of invalid registers," was read the third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act for allowing compensation to the members of the Senate and House of Representatives of the United States, and to certain officers of both Houses," was read the second time; and after agreeing to an amendment,

Ordered, That this bill pass to a third reading. The Senate resumed the second reading of the bill for the relief of persons imprisoned for debt.

On motion to amend the bill in the second section by inserting the word "persons," in lieu of the words "Justices of the Peace;" it was determined in the affirmative—Yeas 23, nays 1, as follows:

YEAS.—Messrs. Bingham, Bloodworth, Bradford, Brown, Cabot, Ellsworth, Foster, Henry, King, Langdon, Latimer, Livermore, Mason, Paine, Potts, Robinson, Ross, Rutherford, Strong, Tazewell, Trumbull, Vining, and Walton.

Mr. Martin voted in the negative.

Ordered, That this bill pass to a third reading.

Mr. MASON presented the memorial of Richard Claiborne, praying that such encouragement may be granted to original procurers of inventions, being Americans, as may be thought expedient; which memorial was read, and ordered to lie on the table.

FRIDAY, March 4.

The bill for the relief of persons imprisoned for debt, was read the third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act for allowing compensation to the members of the Senate and House of Representatives of the United States, and to certain officers of both Houses," was read a third time and passed.

MONDAY, March 7.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making a partial appropriation for the support of the Military Establishment, for the year one thousand seven hundred and ninety-six," in which they desire the concurrence of the Senate.

The bill last brought from the House of Representatives for concurrence was read, and ordered to a second reading.

TUESDAY, March 8.

The VICE PRESIDENT communicated a Letter from OLIVER ELLSWORTH, in which he states that he hath accepted the appointment of Chief Justice of the United States, which, of course, vacates his seat in the Senate; which Letter was read, and ordered to lie on file.

The bill, sent from the House of Representatives for concurrence, entitled "An act making a partial appropriation for the support of the Military Establishment for the year one thousand seven hundred and ninety-six," was read the second time, and, by unanimous consent, the rule was dispensed with, and the bill was read the third time, and passed.

Mr. RUTHERFURD presented the memorial of Anthony Walton White, Colonel of the first regiment of dragoons in the service of the United States, praying the reimbursement of a sum of money advanced to his command in the year 1780; and the memorial was read, and referred to Messrs. STRONG, RUTHERFURD, and FRELINGHUYSEN, to consider and report thereon to the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

of the House of Representatives:

I send, herewith, for the information of Congress, the Treaty concluded between the United States and the Dey and Regency of Algiers.

G. WASHINGTON.

UNITED STATES, March, 8, 1796.

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The Message was read, and ordered to lie on the table.

WEDNESDAY, March 9.

Ordered, That the VICE PRESIDENT be requested to notify the Executive of the State of Connecticut that OLIVER ELLSWORTH hath accepted the appointment of Chief Justice of the United States, and that his seat in the Senate is of course vacated.

THURSDAY, March 10.

The Senate assembled; and, on motion, adjourned.

FRIDAY, March 11.

Mr. LIVERMORE reported, from the committee to whom was referred the Letter of the Governor, and the memorial of the Representatives of the State of Kentucky, with the papers accompanying them; and the report was read, and ordered to lie on the table.

Mr. KING reported, from the committee to whom was referred the bill, entitled "An act for the relief of Jose Roiz Silva," that the bill pass; and, after debate,

Ordered, That the consideration of this bill be postponed until Monday next.

Mr. ROSS, from the committee to whom was referred the memorial of the clerks under the Government of the United States, reported a bill making an extra allowance to certain clerks in the public offices, and to the widows of certain deceased clerks; which was read, and ordered to a second reading.

Mr. STRONG, from the committee to whom was referred the memorial of Anthony Walton White, reported a bill authorizing the settlement of his demands against the United States; which was read, and ordered to a second reading.

On motion,

"That a committee be appointed to bring in a bill reviving, for a limited time, the act, entitled "An act limiting the time for presenting claims for destroyed certificates of certain descriptions:"

It was agreed that the motion lie for consideration.

MONDAY, March 14.

Mr. LIVERMORE presented the memorial of Catharine Greene, widow of General Greene, praying the interposition of Congress in respect to a decree of the Court of Equity of the State of South Carolina, obtained by Harris and Blackford, merchants of Great Britain, against the heirs of her late husband; which was read, and ordered to lie on the table.

The VICE PRESIDENT laid before the Senate a Report of the Secretary for the Department of the Treasury, with a return of exports for the year ending 30th September, 1795.

The report was read and ordered to lie for consideration.

On motion,

"That so much of the resolution of the Senate, of the tenth day of February last, as requires the statements therein mentioned to be reported to the Senate, in the month of January, annually, and to be made up to the first day of October next, preceding, be repealed; and that the said statements be reported to the Senate in the month of December, annually, and made up to the first day of October, of the year preceding such reports:"

It was agreed that the motion lie on the table.

The bill authorizing the settlement of the demands of Anthony Walton White against the United States, was read a second time; and, after debate,

Ordered, That the further consideration of the bill be postponed.

The bill making an extra allowance to certain clerks in the public offices, and to the widows of certain deceased clerks, was read the second time; and, after debate,

Ordered, That the further consideration of this bill be postponed.

The Senate resumed the consideration of the motion, made on the 11th instant, that a committee be appointed on the subject of destroyed certificates. Whereupon,

Ordered, That Mr. KING have permission to introduce a bill, reviving, for a limited time, the act, entitled "An act limiting the time for presenting claims for destroyed certificates of certain descriptions."

Ordered, That the Secretary of the Senate deliver to the Chairman of the Committee of the House of Representatives on the subject of Weights and Measures, the Standards transmitted, by order of the Committee of Public Safety of France, to the PRESIDENT OF THE UNITED STATES, and, with his Message, transmitted to Congress, during the last session.

The Senate resumed the second reading of the bill, sent from the House of Representatives, for concurrence, entitled "An act for the relief of Jose Roiz Silva."

Ordered, That this bill pass to a third reading.

The Senate proceeded to the consideration of the report of the committee, to whom was referred the letter of the Governor, and the memorial of the Representatives, of the State of Kentucky, with the papers accompanying them; and, after debate,

Ordered, That the further consideration thereof be postponed until to-morrow.

TUESDAY, March 15.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
of the House of Representatives:*

By the ninth section of the act, entitled "An act to provide a Naval Armament," it is enacted, "That, if a peace should take place between the United States and the Regency of Algiers, that no further proceedings be had under this act."

The peace which is here contemplated having taken

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place, it is incumbent upon the Executive to suspend all orders respecting the building of the frigates, procuring materials for them, or preparing materials already obtained, which may be done without entrenching upon contracts and agreements, made and entered into before this event.

But, inasmuch as the loss which the public would incur might be considerable, from the dissipation of workmen, from certain works or operations being suddenly dropped or left unfinished, and from the derangement in the whole system, consequent upon an immediate suspension of all proceedings under it; I have therefore thought advisable, before taking such a step, to submit the subject to the Senate and the House of Representatives, that such measures may be adopted, in the premises as may best comport with the public interest.

G. WASHINGTON.

UNITED STATES, March 15, 1796.

The Message was read, and ordered to lie for consideration.

The bill sent from the House of Representatives for concurrence, entitled "An act for the relief of Jose Roiz Silva," was read the third time, and passed.

Mr. STRONG from the committee to whom was referred the bill, entitled "An act for the relief of certain officers and soldiers, who have been wounded or disabled in the actual service of the United States," reported that the bill pass without amendment; whereupon, the bill was ordered to a third reading.

The second reading of the bill authorizing the settlement of the demands of Anthony Walton White, against the United States, was resumed; and, on the question to agree to the enacting clause in the bill, it passed in the negative. So the bill was rejected.

On motion, it was agreed that the motion made yesterday, respecting returns from the Department of Treasury, of imports, exports, and tonnage, should be further postponed.

The Senate resumed the consideration of the report of the committee, to whom was referred the letter of the Governor, and the memorial of the Representatives, of the State of Kentucky, with the papers accompanying them; and, after debate, the Senate adjourned.

WEDNESDAY, March 16.

The VICE PRESIDENT laid before the Senate a Report from the Secretary for the Department of War, on the case of certain invalid pensioners of the State of Massachusetts; which was read and ordered to lie for consideration.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of certain officers and soldiers, who have been wounded or disabled in the actual service of the United States," was read the third time, and passed.

The Senate resumed the second reading of the bill making an extra allowance to certain clerks in the public offices, and to the widows of certain deceased clerks; and, having agreed to an amendment, the bill was ordered to a third reading.

Ordered, That the consideration of the report of the committee to whom was referred the letter of the Governor, and the memorial of the Representatives of the State of Kentucky, with the papers accompanying them, be further postponed.

The Senate resumed the consideration of the motion made the 14th instant, respecting the returns from the Department of Treasury, of imports, exports, and tonnage: whereupon,

Resolved, That so much of the resolution of the Senate, of the tenth day of February last, as requires the statements therein mentioned to be reported to the Senate, in the month of January, annually, and to be made up to the first day of October next preceding, be repealed; and that the said statements be reported to the Senate in the month of December, annually, and made up to the first day of October, of the year preceding such reports.

Ordered, That the Message of the PRESIDENT OF THE UNITED STATES of the 15th instant, respecting the equipment of the frigates, be referred to Messrs. BINGHAM, READ, and CABOT, to consider and report thereon to the Senate.

THURSDAY, March 17.

The bill making an extra allowance to certain clerks in the public offices, and to the widows of certain deceased clerks, was read the third time.

On motion to insert the names of William Lambert and Bernard Webb, it passed in the negative.

On motion to strike out "one hundred dollars," the provision for the widows of deceased clerks, for the purpose of inserting a larger sum, it passed in the negative.

Resolved, That this bill pass; that it be engrossed; and that the title thereof be "An act making an extra allowance to certain clerks in the public offices, and to the widows of certain deceased clerks."

Mr. BINGHAM reported, from the committee to whom was referred the Message of the PRESIDENT OF THE UNITED STATES, of the 15th instant, respecting the equipment of the frigates. The report was read, and ordered to lie on the table.

The Senate resumed the consideration of the report of the committee to whom was referred the letter from the Governor, and the memorial of the Representatives of the State of Kentucky, with the papers accompanying them, which is as follows:

"That the representatives of the freemen of Kentucky state, in their memorial, that in February, 1795, a pamphlet was published by George Muter and Benjamin Sebastian, (who were two Judges of the Court of Appeals,) in which they say that Humphrey Marshall had a suit in chancery, in the said Court of Appeals, in which it appearing manifest from the oath of the complainant, from disinterested testimony, from records, from documents furnished by himself, and from the contradictions contained in his own answer, that he had committed a gross fraud, the Court gave a decree against him; and that, in the course of the investigation, he was publicly charged with perjury. That Mr. Marshall, in a publication in the Kentucky Gazette, called for a specification of the charge; to which the said George Muter and Benjamin Sebastian, in a like

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publication, replied, that he was guilty of perjury in his answer to the bill in chancery, exhibited against him by James Wilkinson, and that they would plead justification to any suit brought against them therefor. That no such suit as the said representatives could learn, had been brought. The said Representatives further say, that they do not mean to give an opinion on the justice of the said charge, but request that an investigation may immediately take place relative thereto.

"Your committee observe that the said suit was tried eighteen months before Mr. Marshall was chosen a member of the Senate, and that, previous to his election, mutual accusations had taken place between him and the Judges of the said Court, relating to the same suit.

"The Representatives of Kentucky have not furnished any copy of Mr. Marshall's answer on oath, nor have they stated any part of the testimony, or produced any of the said records or documents, or the copy of any paper, in the cause, nor have they intimated a design to bring forward those or any other proofs.

"Your committee are informed, by the other Senator and two Representatives in Congress, from Kentucky, that they have not been requested by the Legislature of that State to prosecute this inquiry, and that they are not possessed of any evidence in the case, and that they believe no person is authorized to appear in behalf of the Legislature.

"Mr. Marshall is solicitous that a full investigation of the subject should take place in the Senate, and urges the principle that consent takes away error, as applying on this occasion, to give the Senate jurisdiction; but, as no person appears to prosecute, and there is no evidence adduced to the Senate, nor even a specific charge, the committee think any further inquiry by the Senate would be improper. If there were no objections of this sort, the committee would still be of opinion that the memorial could not be sustained. They think that, in a case of this kind, no person can be held to answer for an infamous crime, unless on a presentment or indictment of a grand jury, and that, in all such prosecutions, the accused ought to be tried by an impartial jury of the State and district wherein the crime shall have been committed. If, in the present case, the party has been guilty in the manner suggested, no reason has been alleged, by the memorialists, why he has not long since been tried in the State and district where he committed the offence. Until he is legally convicted, the principles of the Constitution and of the common law concur in presuming that he is innocent. And the committee are compelled, by a sense of justice, to declare, that, in their opinion, this presumption in favor of Mr. Marshall is not diminished by the recriminating publications of two men, who take no pains to conceal their personal resentment against him.

"Whatever motives induced the Legislature of Kentucky to call the attention of the Senate to the above mentioned publications, the committee are of opinion that, as the Constitution does not give jurisdiction to the Senate, the consent of the party cannot give it, and that, therefore, the said memorial ought to be dismissed."

On motion to postpone the consideration of the report until to-morrow, it passed in the negative, and, after debate, on motion to reconsider the question for postponement, it passed in the negative.

On motion to expunge all the words from "if in the present case," inclusive, to the end of the re-

port, a motion was made to amend the part proposed to be struck out by expunging these words: "of two men who take no pains to conceal their personal resentment," and it was agreed that this motion was not in order.

A motion was made to divide the original motion for striking out, and retain the words from "if in the present case," inclusive, to the word, "innocent," at the end of the first paragraph; and, after debate, the Senate adjourned.

FRIDAY, March 18.

Mr. VINING presented the petition of Charles King and others, citizens of the State of Delaware, praying the establishment of an office to license, register, enter, and clear vessels, more conveniently placed than at Wilmington; which petition was read, and referred to Messrs. VINING, HENRY, and BINGHAM, to consider and report thereon to the Senate.

The Senate resumed the consideration of the report of the committee to whom was referred the letter from the Governor, and the memorial of the Representatives of the State of Kentucky, with the papers accompanying them, together with the motion made thereon, and under debate yesterday; and a motion was made to amend the motion by expunging from the report all that follows the words "the memorial could not be sustained."

And, after debate, the Senate adjourned.

SATURDAY, March 19.

The Senate resumed the consideration of the report of the committee to whom was referred the letter from the Governor, and the memorial of the Representatives of the State of Kentucky, with the papers accompanying them; also, the motion made thereon, and under debate yesterday, together with the motion for amendment, by expunging from the report all that follows the words "the memorial could not be sustained;" and a motion was made to postpone the report, and the motions made thereon, and to take into consideration the following resolution:

"Whereas the honorable the Legislature of the State of Kentucky have, by their memorial, transmitted by the Governor of said State, informed the Senate that Humphrey Marshall, a Senator from the said State, had been publicly charged with the crime of perjury, and requested that an inquiry might be thereupon instituted, in which request the said Humphrey Marshall has united; and it being highly interesting, as well to the honor of the said State as to that of the Senate, and an act of justice due to the character of the said Humphrey Marshall that such inquiry should be had: therefore,

"Resolved, That the Senate will proceed to the examination of the said charge on the ——— day of the next session of Congress; that, in the opinion of the Senate, a conviction or acquittal in the ordinary courts of justice of the said State would be the most satisfactory evidence on this occasion; but that if this should not be attainable by reason of any act of limitation or other legal impediment, such other evidence will be received as the nature of the case may admit and require

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"Resolved, That the Vice President be requested to transmit a copy of the foregoing resolution to the Governor of the said State."

And, after debate, the Senate adjourned.

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MONDAY, March 21.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list;" and a "Resolution directing further returns in the cases of claimants for invalid pensions;" in which bill and resolution they desire the concurrence of the Senate.

The Senate resumed the consideration of the motion, made on the 19th instant, to postpone the report of the committee to whom was referred the letter from the Governor, and the memorial of the Representatives of the State of Kentucky, with the papers accompanying them, together with the motions of amendment made thereon, in order to consider the following resolution:

"Whereas the honorable the Legislature of the State of Kentucky have, by their memorial, transmitted by the Governor of the said State, informed the Senate that Humphrey Marshall, a Senator from the said State, had been publicly charged with the crime of perjury, and requested that an inquiry might be thereupon instituted, in which request the said Humphrey Marshall has united; and it being highly interesting, as well to the honor of the said State as to that of the Senate, and an act of justice due to the character of the said Humphrey Marshall that such inquiry should be had: therefore,

"Resolved, That the Senate will proceed to the examination of the said charge on the——day of the next session of Congress; that, in the opinion of the Senate, a conviction or acquittal in the ordinary courts of justice of the said State would be the most satisfactory evidence on this occasion; but that, if this should not be attainable, by reason of any act of limitation or other legal impediment, such other evidence will be received as the nature of the case may admit and require.

"Resolved, That the Vice President be requested to transmit a copy of the foregoing resolution to the Governor of the said State."

And, on the question for postponement, it passed in the negative—yeas 7, nays 17, as follows:

YEAS.—Messrs. Bloodworth, Brown, Burr, Langdon, Mason, Robinson, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Cabot, Foster, Frelinghuysen, Gunn, Henry, Latimer, Livermore, Martin, Paine, Read, Ross, Rutherford, Strong, Trumbull, and Vining.

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TUESDAY, March 22.

The bill sent from the House of Representatives for concurrence entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list," was read, and ordered to a second reading.

The resolution directing further returns in the cases of claimants for invalid pensions, was read, and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House have passed

a bill, entitled "An act to continue in force 'An act for ascertaining the fees in Admiralty proceedings in the District Courts of the United States, and for other purposes,'" and a bill, entitled, "An act for the relief of Henry Messonnier;" in which bills they desire the concurrence of the Senate.

The bills last mentioned were read, and ordered to a second reading.

The Senate resumed the consideration of the report of the committee to whom was referred the letter from the Governor, and the memorial of the Representatives of the State of Kentucky, with the papers accompanying them.

On the question to expunge these words: "if there were no objections of this sort, the committee would still be of opinion that the memorial could not be sustained," it passed in the negative.

On the question to expunge the following words:

"They think that in a case of this kind no person can be held to answer for an infamous crime unless on a presentment or indictment of a grand jury, and that in all such prosecutions the accused ought to be tried by an impartial jury of the State and district wherein the crime shall have been committed. If in the present case the party has been guilty, in the manner suggested, no reason has been alleged why he has not long since been tried in the State and district where he committed the offence. Until he is legally convicted, the principles of the Constitution and of the common law concur in presuming that he is innocent:"

It passed in the negative.

On motion, it was agreed to amend the next paragraph, to read as follows:

"And the committee are compelled, by a sense of justice, to declare that, in their opinion, this presumption in favor of Mr. Marshall is not diminished by re-criminating publications, which manifest strong resentment against him."

And on the question to expunge the paragraph, as amended, it passed in the negative.

On motion, it was agreed to amend the last clause of the report to read as follows:

"And they are also of opinion that, as the Constitution does not give jurisdiction to the Senate, the consent of the party cannot give it; and that, therefore, the said memorial ought to be dismissed."

On motion to expunge the clause last agreed to be amended, it passed in the negative—yeas 7, nays 16, as follows:

YEAS.—Messrs. Bloodworth, Burr, Langdon, Martin, Mason, Robinson, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Cabot, Foster, Frelinghuysen, Gunn, Henry, Latimer, Livermore, Paine, Read, Ross, Rutherford, Strong, Trumbull, and Vining."

Mr. BROWN requested and was excused from voting on the question.

On motion, it was agreed to amend the last paragraph but two of the report, beginning with the words, "If in the present case," by inserting the words "by the memorialists," after the word "alleged."

On the question to adopt the report, as amended, it passed in the affirmative—yeas 16, nays 8, as follows:

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YEAS.—Messrs. Bingham, Bradford, Cabot, Foster, Frelinghuysen, Gunn, Henry, Latimer, Livermore, Paine, Read, Ross, Rutherford, Strong, Trumbull, and Vining.

NAYS.—Messrs. Bloodworth, Brown, Burr, Langdon, Martin, Mason, Robinson, and Tazewell.

So the report was adopted, as follows:

"The committee to whom were referred the letter of the Governor, and the memorial of the Representatives of Kentucky, with the papers accompanying them, report:

"That the Representatives of the freemen of Kentucky state, in their memorial, that, in February, 1795, a pamphlet was published by George Muter and Benjamin Sebastian, (who were two Judges of the Court of Appeals,) in which they say that Humphrey Marshall had a suit in chancery in the said Court of Appeals, in which it appearing manifest, from the oath of the complainant, from disinterested testimony, from records, from documents furnished by himself, and from the contradictions contained in his own answer, that he had committed a gross fraud, the Court gave a decree against him; and that, in the course of the investigation, he was publicly charged with perjury. That Mr. Marshall, in a publication in the Kentucky Gazette, called for a specification of the charge; to which the said George Muter and Benjamin Sebastian, in a like publication, replied, that he was guilty of perjury in his answer to the bill in chancery exhibited against him by James Wilkinson, and that they would plead justification to any suit brought against them therefor. That no such suit, as the said Representatives could learn, had been brought. The said Representatives further say, that they do not mean to give an opinion on the justice of the said charge, but request that an investigation may immediately take place relative thereto.

"Your committee observe that the said suit was tried eighteen months before Mr. Marshall was chosen a member of the Senate, and that, previous to his election, mutual accusations had taken place between him and the Judges of the said Court, relating to the same suit.

"The Representatives of Kentucky have not furnished any copy of Mr. Marshall's answer on oath, nor have they stated any part of the testimony, or produced any of the said records or documents, or the copy of any paper, in the cause, nor have they intimated a design to bring forward those or any other proofs.

"Your committee are informed by the other Senator and the two Representatives in Congress from Kentucky, that they have not been requested by the Legislature of that State to prosecute this inquiry, and that they are not possessed of any evidence in the case, and that they believe no person is authorized to appear on behalf of the Legislature.

"Mr. Marshall is solicitous that a full investigation of the subject should take place in the Senate, and urges the principle that consent takes away error, as applying, on this occasion, to give the Senate jurisdiction; but, as no person appears to prosecute, and there is no evidence adduced to the Senate, nor even a specific charge, the committee think any further inquiry by the Senate would be improper. If there were no objections of this sort, the committee would still be of opinion that the memorial could not be sustained. They think that, in a case of this kind, no person can be held to answer for an infamous crime, unless on a presentment or indictment of a grand jury, and that, in all such prosecutions, the accused ought to be tried by an impartial jury of the State and district wherein the

crime shall have been committed. If, in the present case, the party has been guilty in the manner suggested, no reason has been alleged by the memorialists why he has not long since been tried in the State and district where he committed the offence. Until he is legally convicted, the principles of the Constitution and of the common law, concur in presuming that he is innocent. And the committee are compelled, by a sense of justice, to declare that, in their opinion, the presumption in favor of Mr. Marshall is not diminished by the recriminating publications, which manifest strong resentment against him.

"And they are also of opinion that, as the Constitution does not give jurisdiction to the Senate, the consent of the party cannot give it; and that, therefore, the said memorial ought to be dismissed."

Resolved, That the VICE PRESIDENT of the United States be requested to transmit a copy of the foregoing report to the Governor of Kentucky.

NAVAL ARMAMENT.

The report of the committee to whom was referred the communication from the PRESIDENT of the UNITED STATES, on the subject of the Naval Armament, was read, as follows:

"That it is the opinion of the committee it will be expedient to authorize the President of the United States to cause to be completed, with all convenient expedition, two of the said frigates of forty-four, and one of thirty-six guns.

"That a discretionary power be committed to the President of the United States to cause the others to be finished, having a due regard to the existing price of labor and materials.

"That so much of the sum of six hundred and eighty-eight thousand eight hundred and eighty-eight dollars and thirty-two cents, as, by the act of June, 1794, was appropriated to pay the expenses to be incurred by the act to provide a Naval Armament, remains unexpended, as well as so much of the sum of eighty thousand dollars, appropriated for a provisional equipment of galleys, by the before-recited act, be appropriated for carrying into effect the provisions of the aforesaid resolution."

Whereupon, it was ordered, that the committee be instructed to bring in a bill conformable to the report of the committee.

WEDNESDAY, March 23.

Mr. BINGHAM, from the committee instructed to that purpose, reported a bill supplementary to an act, entitled "An act to provide a Naval Armament;" which was read, and ordered to a second reading.

The bill sent from the House of Representatives for concurrence, entitled "An act for the relief of Henry Messonnier," was read the second time, and referred to Messrs. BRADFORD, BINGHAM, and FRELINGHUYSEN, to consider and report thereon to the Senate.

The VICE PRESIDENT laid before the Senate a Report from the Secretary of War, of the claims of four invalid pension applicants, forwarded by the Judge of the District Court of Virginia, with

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sundry papers; which were read, and ordered to lie for consideration.

Ordered, That MESSRS. MARTIN, LIVERMORE, and BLOODWORTH, be a committee to bring in a bill making certain provisions in regard to the Circuit Court for the District of North Carolina.

The bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force an act 'for ascertaining the fees in Admiralty proceedings in the District Courts of the United States, and for other purposes,'" was read the second time, and ordered to a third reading.

THURSDAY, March 24.

Mr. MARTIN, from the committee instructed to that purpose, reported a bill making certain provisions in regard to the Circuit Court for the district of North Carolina; which was read, and, by unanimous consent, the rule was dispensed with, and the bill was read the second and third times, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An Act for the relief of George Knowel Jackson," and a bill entitled "An act declaring the consent of Congress to a certain act of the State of Maryland, and to continue an act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations, so far as the same respects the States of Georgia and Rhode Island and Providence Plantations;" in which bills they desire the concurrence of the Senate.

The bills last mentioned were read, and ordered to a second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act to continue in force an act 'for ascertaining the fees in Admiralty proceedings in the District Courts of the United States, and for other purposes,'" was read the third time, and amended.

Resolved, That this bill pass as amended.

On motion, by Mr. MASON, it was agreed to reconsider the vote passed the 15th instant, on the second reading of the bill authorizing the settlement of the demands of Anthony Walton White against the United States, and that the bill be still considered as in its second reading.

FRIDAY, March 25.

The bill supplementary to an act, entitled "An act to provide a Naval Armament," was read the second time, and amended.

Ordered, That this bill pass to the third reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
of the House of Representatives:*

I send herewith, for your information, the translation of a Letter from the Minister Plenipotentiary of the French Republic to the Secretary of State, announcing the peace made by the Republic with the Kings of Prussia and Spain, the Grand Duke of Tuscany, and

the Landgrave of Hesse Cassel; and that the republican Constitution, decreed by the National Convention, had been accepted by the people of France, and was in operation. I also send you a copy of the answer given, by my direction, to this communication from the French Minister. My sentiments, therein expressed, I am persuaded will harmonize with yours, and with those of all my fellow-citizens.

G. WASHINGTON.

UNITED STATES, March 25, 1796.

The Message and papers therein referred to were read, and ordered to lie for consideration.

Mr. BROWN presented the memorial of Ebenezer Zane, praying liberty to locate such military bounty lands, lying at the crossings of certain rivers, mentioned in the said memorial, as may be necessary to enable him to establish ferries and open a road through the Territory Northwest of the Ohio to the State of Kentucky; which memorial was read.

Ordered, That it be referred to MESSRS. BROWN, ROSS, and LIVERMORE, to consider and report thereon to the Senate.

MONDAY, March 28.

The bill supplementary to an act, entitled "An act to provide a Naval Armament," was read the third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list," was read the second time, and referred to MESSRS. TAZEVELL, STRONG, and TRUMBULL, to consider and report thereon to the Senate.

Ordered, That the "resolution directing further returns in the cases of claimants for invalid pensions," be referred to the last-mentioned committee, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of George Knowel Jackson," was read the second time, and referred to the last-mentioned committee, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act declaring the consent of Congress to a certain act of the State of Maryland, and to continue an act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations, so far as the same respects the States of Georgia, and Rhode Island and Providence Plantations," was read the second time, and referred to MESSRS. HENRY, BRADFORD, and STRONG, to consider and report thereon to the Senate.

TUESDAY, March 29.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief and protection of American seamen," in which they desire the concurrence of the Senate.

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Mr. FRELINGHUYSEN presented the memorial of Stephen Sayre, praying compensation for his time and services as Secretary, acting under the Commissioners at Versailles, in the year one thousand seven hundred and seventy-seven; which memorial was read, and ordered to lie on the table.

The bill last brought from the House of Representatives for concurrence was read, and ordered to a second reading.

Mr. TAZEWELL reported from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of George Knowel Jackson;" and the report was adopted. Whereupon,

Resolved, That this bill do not pass.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate:

I send herewith a copy of the Treaty of Friendship, Limits, and Navigation, between the United States and His Catholic Majesty, which has been ratified by me, with your advice and consent. A copy of the Treaty will be immediately communicated to the House of Representatives: it being necessary to make provision, in the present session, for carrying into execution the third and twenty-first articles, particularly the former; seeing that execution must commence before the next meeting of Congress.

Estimates of the moneys necessary to be provided for the purposes of this and several other Treaties with foreign nations and the Indian tribes, will be laid before you by the proper Department.

G. WASHINGTON.

The Message was read, and ordered to lie for consideration.

Mr. BRADFORD reported, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Henry Messonnier," that the bill do not pass.

Ordered, That the report lie until to-morrow for consideration.

WEDNESDAY, March 30.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief and protection of American seamen," was read the second time. On motion, that the bill be referred to a committee, it passed in the negative.

Ordered, That this bill lie on the table.

Mr. CABOT, from the committee, reported a bill to regulate the Mint of the United States, and to punish frauds by counterfeiting the coins thereof, or otherwise; which was read, and ordered to a second reading.

THURSDAY, March 31.

Mr. LIVERMORE reported, from the committee to whom were referred the Message from the PRESIDENT OF THE UNITED STATES of the 29th of January last, with the papers accompanying the same—

"That the laws and journals of the respective Territories of the United States Northwest and Southwest

of the river Ohio, being part of the said papers referred, should lie for consideration. And that the act of the State of Rhode Island, ratifying an amendment to the Constitution, respecting the suability of a State; also, an act of North Carolina to the same effect; and an act of the said State, ceding the jurisdiction of Shell Castle Island, for the purpose of erecting a beacon, being the residue of the said papers referred, should lie for the information of the Senate."

The report was read.

FRIDAY, April 1.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing a loan for the use of the City of Washington, in the District of Columbia; and for other purposes therein mentioned;" a bill, entitled "An act authorizing the erection of a light-house on Baker's Island, in the State of Massachusetts;" and a bill, entitled "An act to provide for the widows and orphans of certain officers, who have died of wounds, received in the service of the United States, since the fourth of March, one thousand seven hundred and eighty-nine;" in which bills, severally, they desire the concurrence of the Senate.

The bills last brought from the House of Representatives for concurrence were read, and ordered to a second reading.

The VICE PRESIDENT laid before the Senate a Letter from the Hon. Oliver Wolcott, Lieutenant Governor of the State of Connecticut, in answer to the notification from the Senate that the seat of the Hon. OLIVER ELLSWORTH is vacated by his appointment to the office of Chief Justice; which letter was read, and ordered to lie on file.

Mr. CABOT, from the committee to whom was referred the bill to regulate the compensation of clerks, reported amendments; which were read, and ordered to lie for consideration.

Mr. BROWN, from the committee to whom was referred the memorial of Ebenezer Zane, made a report; which was read, and ordered to lie for consideration.

The VICE PRESIDENT laid before the Senate a confidential communication from the Secretary of the Department of State, with sundry estimates referred to in the Message of the PRESIDENT OF THE UNITED STATES, of the 29th of March last; which were read, and ordered to lie for consideration.

MONDAY, April 4.

The bill, sent from the House of Representatives for concurrence, entitled "An act authorizing a loan for the use of the city of Washington, in the District of Columbia, and for other purposes therein mentioned," was read the second time, and referred to Messrs. KING, HENRY, and TAZEWELL, to consider and report thereon to the Senate.

The bill sent from the House of Representatives for concurrence, entitled "An act to provide for the widows and orphans of certain officers who have died of wounds received in the service of

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the United States, since the 4th of March, one thousand seven hundred and eighty-nine," was read the second time, and referred to Messrs. STRONG, HENRY, and LIVERMORE, to consider and report thereon to the Senate.

The VICE PRESIDENT laid before the Senate an abstract from the Department of Treasury, to the 2d instant, of the compensations of certain officers employed in the collection of the duties of impost and tonnage; which was read, and ordered to lie for consideration.

The bill, sent from the House of Representatives for concurrence, entitled "An act authorizing the erection of a light-house on Baker's Island, in the State of Massachusetts," was read the second and third times, and passed.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief and protection of American seamen;" and, after debate, the Senate adjourned.

TUESDAY, April 5.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief and protection of American seamen"

A motion was made to expunge the first section; and, on motion to postpone the consideration of this motion, it passed in the affirmative. And it was agreed to postpone the further consideration of the bill until Thursday next.

A message from the House of Representatives informed the Senate that the House insist on their disagreement to sundry amendments of the Senate to the bill, entitled "An act for establishing trading houses with the Indian tribes," ask a conference thereon, and have appointed managers at the same on their part.

The Senate took into consideration the resolution of the House of Representatives, insisting on their disagreement to sundry amendments of the Senate to the bill, entitled "An act for establishing trading houses with the Indian tribes," and asking a conference thereon.

Resolved, That the Senate agree to the proposed conference, and that Messrs. ROSS and KING be managers at the same on their part.

The Senate proceeded to the consideration of the report of the committee to whom was referred the bill to regulate the compensation of clerks, and having agreed thereto, and amended the bill accordingly, it was read the third time, and passed.

WEDNESDAY, April 6.

Mr. TAZEWELL reported, from the committee to whom was referred, the bill, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list;" which was read, and ordered to lie for consideration.

The committee to whom was referred the petition of Ebenezer Zane, states—

"That the petitioner sets forth, that he hath, at considerable trouble and expense, explored, and in part opened, a road Northwest of the river Ohio, between Wheeling and Limestone, which, when completed, will greatly contribute to the accommodation of the public, as well as of individuals. But, that several rivers intervening, the road proposed cannot be used with safety, until ferries shall be established thereon. That the petitioner will engage to have such ferries erected, provided he can obtain a right to the land which is now the property of the United States. And therefore prays that he may be authorized to locate, and survey, at his own expense, military bounty warrants, upon as much land at Muskingum, Hockhocking, and Sciota rivers, as may be sufficient to support the necessary establishments; and that the same be granted to him by the United States.

"That they, having received satisfactory information in support of the above statement, are of opinion that the proposed road will be of general utility, that the petitioner merits encouragement, and that his petition being reasonable, ought to be granted.

"The committee therefore submit the following resolution:

Resolved, That the petition of Ebenezer Zane is reasonable; that he be authorized to locate warrants granted by the United States for military services, upon three tracts of land, not exceeding one mile square each, at Muskingum, Hockhocking, and Sciota, where the proposed road shall cross those rivers, for the purpose of establishing ferries thereon; and that leave be given to bring in a bill for that purpose."

On motion, it was agreed that this report be adopted, and that the committee who were appointed on the petition be instructed to bring in a bill accordingly.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river;" in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to a second reading.

The Senate proceeded to the consideration of the report of the committee to whom was referred the bill, entitled "An act for the relief of Henry Messonnier." And, after debate, the further consideration thereof was postponed.

Mr. BROWN, from the committee instructed for the purpose, reported a bill to authorize Ebenezer Zane to locate certain lands in the Territory of the United States Northwest of the river Ohio; which was read, and ordered to a second reading.

THURSDAY, April 7.

The bill to authorize Ebenezer Zane to locate certain lands in the Territory of the United States Northwest of the river Ohio, was considered.

Ordered, That the second reading of this bill be the order of the day for Monday next.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act for the relief and protection of American seamen."

On motion, that it be committed, it passed in the affirmative—yeas 12, nays 10, as follows:

YEAS.—Messrs. Bingham, Bradford, Cabot, Foster, Gunn, King, Latimer, Paine, Read, Ross, Strong, and Trumbull.

NAYS.—Messrs. Bloodworth, Brown, Burr, Butler, Langdon, Livermore, Martin, Mason, Robinson, and Tazewell.

On motion, that this committee consist of five members, it passed in the negative. And it was agreed that Messrs. KING, BURR, and LIVERMORE, be the committee.

The bill, sent from the House of Representatives for concurrence, entitled "An act providing for the sale of the lands of the United States, in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," was read the second time.

Ordered, That this bill lie for consideration.

The Senate proceeded to the consideration of the report of the committee to whom was referred the bill, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list."

Ordered, That the further consideration thereof be the order of the day for Monday next.

FRIDAY, April 8.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act providing for the sale of the lands of the United States, in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river."

Ordered, That this bill be referred to Messrs. ROSS, KING, BROWN, MARSHALL, and STRONG, to consider and report thereon to the Senate.

Mr. STRONG, from the committee to whom was referred the bill sent from the House of Representatives for concurrence, entitled "An act to provide for the widows and orphans of certain officers who have died of wounds received in the service of the United States, since the fourth of March, one thousand seven hundred and eighty-nine, reported amendments; which were read, and ordered to lie for consideration.

Mr. ROSS reported from the managers on the part of the Senate, at the conference on the bill, entitled "An act for establishing trading houses with the Indian tribes;" and the report was adopted, as follows:

"The managers on the part of the Senate have conferred with those on the part of the House, and do recommend that the Senate recede from their amendments disagreed to by the House.

"And that the fifth section be amended to read as follows:

"SEC. 5. *Be it further enacted*, That, during the continuance of this act, the President of the United States be, and he is hereby, authorized to draw annually from the Treasury of the United States a sum not exceeding eight thousand dollars, to be applied under his direction, for the purpose of paying the agents and clerks, which agents shall be allowed to draw, out of the public supplies, two rations each, and each clerk one ration per day.

"And in section 6, line 2, after the word 'dollars,'

insert these words: 'exclusive of the allowances to agents and clerks.'

"Section 7, line 6th, strike out the words, 'a sum not exceeding,' and insert 'the sum of.'"

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act for the relief of Henry Mes-sonnier." Whereupon,

Resolved, That this bill do not pass.

MONDAY, April 11.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
of the House of Representatives:*

By an act of Congress passed on the 26th of May, 1790, it was declared that the inhabitants of the Territory of the United States South of the river Ohio should enjoy all the privileges, benefits, and advantages, set forth in the ordinance of Congress for the government of the Territory of the United States Northwest of the river Ohio; and that the government of said Territory South of the Ohio should be similar to that which was then exercised in the Territory Northwest of the Ohio; except so far as was otherwise provided in the conditions expressed in an act of Congress passed the 2nd of April, 1790, entitled "An act to accept a cession of the claims of the State of North Carolina to a certain district of Western territory."

Among the privileges, benefits, and advantages, thus secured to the inhabitants of the Territory South of the river Ohio, appear to be the right of forming a permanent Constitution and State Government, and of admission as a State, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever, when it should have therein sixty thousand free inhabitants: Provided the Constitution and Government so to be formed should be Republican, and in conformity to the principles contained in the articles of the said ordinance.

As proofs of the several requisites to entitle the Territory South of the river Ohio to be admitted, as a State, into the Union, Governor Blount has transmitted a return of the enumeration of its inhabitants, and a printed copy of the Constitution and form of government on which they have agreed; which, with his letters accompanying the same, are herewith laid before Congress.

G. WASHINGTON.

UNITED STATES, April 8, 1796.

The Message and papers were read, and ordered to lie until to-morrow for consideration.

A message from the House of Representatives informed the Senate that the House have passed the bill, sent from the Senate for concurrence, entitled "An act supplementary to an act, entitled 'An act to provide a Naval Armament,'" with amendments; in which they desire the concurrence of the Senate. They have passed a bill, entitled "An act in addition to an act, entitled 'An act making further provision for the support of Public Credit, and for the redemption of the Public Debt;'" in which they desire the concurrence of the Senate.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act authorizing and direct-

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ing the Secretary of War to place certain persons therein named on the pension list;" which was adopted, and the bill amended accordingly.

Ordered, That this bill pass to a third reading.

The amendments of the House of Representatives to the bill, entitled "An act supplementary to an act, entitled 'An act to provide a Naval Armament,'" were read, and ordered to lie until tomorrow for consideration.

The bill, last brought from the House of Representatives for concurrence, was read, and ordered to a second reading.

The Senate proceeded to the consideration of the report of the committee to whom was referred the bill, entitled "An act to provide for the widows and orphans of certain officers who have died of wounds received in the service of the United States, since the fourth of March, one thousand seven hundred and eighty-nine." And, after debate, the Senate adjourned.

TUESDAY, April 12.

JOSIAH TATNALL, elected a Senator by the Legislature of the State of Georgia, in place of Mr. Walton, appointed by the Executive of the said State to succeed Mr. Jackson, produced his credentials, and, the oath required by law being administered, took his seat in the Senate.

Mr. HENRY, from the committee to whom was referred the bill, entitled "An act declaring the consent of Congress to a certain act of the State of Maryland, and to continue 'An act, declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations,' so far as the same respects the States of Georgia, and Rhode Island and Providence Plantations," reported an amendment, which was adopted, and the bill was amended accordingly.

The bill was then read the third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list," was read the third time.

On the question to concur in the bill as amended, it passed in the affirmative—yeas 15, nays 8, as follows:

YEAS—Messrs. Bloodworth, Bradford, Burr, Cabot, Foster, Frelinghuysen, Gunn, King, Livermore, Martin, Paine, Read, Robinson, Strong, and Trumbull.

NAYS—Messrs. Bingham, Brown, Henry, Marshall, Mason, Ross, Rutherford, and Tazewell.

Mr. Tattnall excused.

So it was *Resolved*, That this bill pass with amendments.

The Senate resumed the consideration of the "resolution directing further returns in the cases of claimants for invalid pensions;" and

Resolved, That they concur therein.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act to provide for the wi-

dows and orphans of certain officers who have died of wounds received in the service of the United States since the fourth of March, one thousand seven hundred and eighty-nine."

On the question to agree to the last amendment reported by the committee, as followeth:

Line 13, after the word "States," insert "and to the widows and orphans of those commissioned officers, in the late Continental army, who died by reason of wounds received before the fifteenth day of May, one thousand seven hundred and seventy-eight, in the actual service of the United States, and for whom no provision has been made:"

It passed in the negative—yeas 8, nays 16, as follows:

YEAS—Messrs. Gunn, Henry, Livermore, Martin, Mason, Potts, Read, and Tattnall.

NAYS—Messrs. Bingham, Bloodworth, Bradford, Brown, Cabot, Foster, Frelinghuysen, King, Marshall, Paine, Robinson, Ross, Rutherford, Strong, Tazewell, and Trumbull.

So the report of the committee was not adopted.

On the question, Shall this bill pass to the third reading? it passed in the affirmative—yeas 18, nays 13, as follows:

YEAS—Messrs. Bingham, Bloodworth, Brown, Burr, Frelinghuysen, Gunn, Henry, Martin, Mason, Potts, Read, Ross, and Tattnall.

NAYS—Messrs. Bradford, Cabot, Foster, King, Langdon, Livermore, Marshall, Paine, Robinson, Rutherford, Strong, Tazewell, and Trumbull.

The number of votes being equal, the VICE PRESIDENT determined the question in the affirmative.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act supplementary to an act, entitled 'An act to provide a Naval Armament,'" and,

Resolved, That they do concur therein.

Ordered, That the bill to regulate the Mint of the United States, and to punish frauds by counterfeiting the coins thereof, or otherwise, be re-committed.

WEDNESDAY, April 13.

The bill, sent from the House of Representatives for concurrence, entitled "An act in addition to an act, entitled 'An act making further provision for the support of Public Credit, and for the redemption of the Public Debt,'" was read the second time, and referred to Messrs. LIVERMORE, CABOT, and KING, to consider and report thereon to the Senate.

The bill to authorize Ebenezer Zane to locate certain lands in the Territory of the United States Northwest of the river Ohio, was read the second time, and referred to the committee, appointed on the 8th instant, on the bill, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," to consider and report thereon to the Senate.

Mr. BUTLER presented the petition of Charles Colvil, mate and carpenter of the ship Dauphin,

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and late a prisoner in Algiers; which was read, praying Congress to enable him to refund the principal and interest of the money advanced for his ransom.

Ordered, That it be referred to MESSRS. BUTLER, READ, and MASON, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to provide for the widows and orphans of certain officers who have died of wounds received in the service of the United States since the fourth of March, one thousand seven hundred and eighty-nine," was read the third time.

On motion, that the words, "and of the militia," lines 6th and 7th, be expunged, it passed in the negative—yeas 12, nays 16, as follows:

YEAS.—Messrs. Bradford, Butler, Cabot, Foster, Henry, King, Langdon, Latimer, Livermore, Paine, Strong, and Trumbull.

NAYS.—Messrs. Bingham, Bloodworth, Brown, Burr, Frelinghuysen, Gunn, Marshall, Martin, Mason, Potts, Read, Robinson, Ross, Rutherford, Tattnell, and Tazewell.

On motion to add the following words, line 7th, after the word "died," "or who may hereafter die;" it passed in the negative.

On the question to concur in the passing this bill, it was determined in the negative—yeas 13, nays 15, as follows:

YEAS.—Messrs. Bingham, Bloodworth, Brown, Burr, Frelinghuysen, Gunn, Henry, Martin, Mason, Potts, Read, Ross, and Tattnell.

NAYS.—Messrs. Bradford, Butler, Cabot, Foster, King, Langdon, Latimer, Livermore, Marshall, Paine, Robinson, Rutherford, Strong, Tazewell, and Trumbull.

So it was *Resolved*, That this bill do not pass.

A message from the House of Representatives informed the Senate that the House agree to all the amendments of the Senate to the bill, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list," except the seventh, to which they disagree. They have adopted the report of the Committee of Conference on the bill, entitled, "An act for establishing trading houses with the Indian tribes," and they have passed a bill, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers;" in which bill they desire the concurrence of the Senate.

The bill last brought from the House of Representatives for concurrence was read, and ordered to a second reading.

The Senate proceeded to consider the resolution of the House of Representatives, disagreeing to the seventh amendment of the Senate to the bill, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list;" And,

Resolved, That they do recede from their said amendment.

THURSDAY, April 14.

The Senate proceeded to the consideration of the Message of the PRESIDENT OF THE UNITED STATES, of the 8th instant, and of the papers accompanying the same. On motion, that they be referred to a committee, to consist of a member from each State, it passed in the negative.

On motion, that they be referred to a committee to consist of five members, it passed in the negative. And it was agreed that they be referred to MESSRS. KING, READ, and RUTHERFORD, to consider and report thereon to the Senate.

FRIDAY, April 15.

Mr. KING, from the committee to whom was referred the bill, entitled "An act for the relief and protection of American seamen," reported amendments.

Ordered, That they be printed for the use of the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," was read the second time, and the further consideration of the bill was postponed.

MONDAY, April 18.

The Senate resumed the second reading of the bill sent from the House of Representatives for concurrence, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers."

Ordered, That this bill be referred to the committee, appointed on the 8th instant, on the bill, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," to consider and report thereon to the Senate.

Mr. BUTLER presented the memorial of a number of the merchants of Charleston, in the State of South Carolina, praying that speedy measures may be adopted whereby they may be compensated for the depredations committed by the British cruisers on their vessels and property in the West Indies: and the petition was read, and ordered to lie on the table.

The Senate proceeded to consider the amendments reported by the committee to whom was referred the bill, entitled "An act for the relief and protection of American seamen;" and, after debate, the further consideration thereof was postponed.

TUESDAY, April 19.

The Senate resumed the consideration of the amendments reported by the committee to whom was referred the bill, entitled "An act for the relief and protection of American seamen."

The third section, proposed to be substituted by the committee, was read, as follows:

"SEC. 3. And, in order that full and speedy information may be obtained of the seizure and detention, by

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any foreign Power, of any seamen employed on board any ship or vessel of the United States:

"Be it further enacted, That it shall, and hereby is declared to be, the duty of the master of every ship or vessel of the United States, any of the crew whereof shall have been impressed or detained by any foreign Power, at the first port at which such ship or vessel shall arrive, if such impressment or detention happened on the high seas, or, if the same happened within any foreign port, then, in the port in which the same happened, immediately to make a protest, stating the manner of such impressment or detention, by whom made, together with the name and place of residence of the person impressed or detained, distinguishing, also, whether he was an American citizen, and, if not, to what nation he belonged."

On motion, to amend this section, by expunging these words, "distinguishing, also, whether he was an American citizen, and, if not, to what nation he belonged;" it was determined in the negative—yeas 3, nays 16, as follows:

YEAS.—Messrs. Bloodworth, Burr, and Butler.

NAYS.—Messrs. Bradford, Cabot, Foster, Frelinghuysen, Gunn, Henry, King, Latimer, Livermore, Martin, Potts, Read, Ross, Rutherford, Tattall, and Trumbull.

And the report of the committee being amended, was adopted; and it was agreed that the bill be amended accordingly.

Ordered, That this bill pass to the third reading.

WEDNESDAY, April 20.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief and protection of American seamen," was read the third time.

On motion, it was agreed to insert, after the first section, the following amendment:

"SEC. 2. *And be it further enacted,* That, if it should be expedient to employ an additional agent or agents for the purposes authorized by this law, during the recess of the Senate, the President alone be, and hereby is, authorized to appoint such agent or agents."

On motion, it was agreed to amend the last section of the bill, by striking out these words: "the first and second sections of."

Resolved, That this bill pass with the amendments.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making an appropriation for defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the King of Spain;" and a bill, entitled "An act making appropriations for defraying the expenses which may arise in carrying into effect a Treaty made between the United States and certain Indian tribes Northwest of the river Ohio;" in which bills they desire the concurrence of the Senate.

The bills were severally read twice, by unanimous consent.

Ordered, That these bills, together with the confidential communication from the Secretary for the Department of State, with sundry estimates

referred to in the Message of the PRESIDENT OF THE UNITED STATES, of the 29th of March last, be committed to Messrs. KING, LIVERMORE, POTTS, BINGHAM, and READ, to consider and report thereon to the Senate.

THURSDAY, April 21.

Mr. LIVERMORE, from the committee to whom was referred the bill, entitled "An act in addition to an act, entitled 'An act making further provision for the support of Public Credit, and for the redemption of the Public Debt,'" reported that the bill pass without amendment; and the report was adopted.

Ordered, That this bill pass to the third reading.

FRIDAY, April 22.

The bill, sent from the House of Representatives for concurrence, entitled "An act in addition to an act entitled 'An act making further provision for the support of Public Credit, and for the redemption of the Public Debt,'" was read the third time.

Mr. KING, from the committee to whom was referred the bill, entitled "An act authorizing a Loan for the use of the city of Washington, in the District of Columbia, and for other purposes therein mentioned," reported that the bill pass without amendment.

Ordered, That the report lie for consideration.

MONDAY, April 25.

The Senate proceeded to consider the report of the committee to whom was referred the bill, entitled "An act authorizing a Loan for the use of the City of Washington, in the District of Columbia, and for other purposes therein mentioned."

On motion, that the bill be referred to a special committee, to examine the estimates and expenditures, and report generally thereon, it passed in the negative—yeas 12, nays 13, as follows:

YEAS.—Messrs. Bingham, Cabot, Foster, Frelinghuysen, Gunn, King, Latimer, Livermore, Read, Ross, Rutherford, and Trumbull.

NAYS.—Messrs. Bloodworth, Bradford, Brown, Burr, Butler, Henry, Marshall, Martin, Mason, Potts, Robinson, Tattall, and Tazewell.

And after debate, the further consideration of the bill was postponed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making an appropriation for defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the Dey and Regency of Algiers;" and a bill, entitled "An act making further provision relative to the revenue cutters;" in which bills they desire the concurrence of the Senate.

The bills last brought from the House of Representatives for concurrence were read, and ordered to a second reading.

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TUESDAY, April 26.

The bill, sent from the House of Representatives for concurrence, entitled "An act making further provision relative to the revenue cutters," was read the second time, and referred to Messrs. CABOT, BINGHAM, and BLOODWORTH, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act making an appropriation for defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the Dey and Regency of Algiers," was read the second time, and referred to the committee appointed the 20th instant, on the bills respecting the Treaty with the King of Spain, and with certain Indian tribes Northwest of the river Ohio, to consider and report thereon to the Senate.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act authorizing a Loan for the use of the city of Washington, in the District of Columbia, and for other purposes therein mentioned."

A motion was made to expunge from the second section, these words:

"And if the product of the sales of all the said lots shall prove inadequate to the payment of the principal and interest of the sums borrowed under this act, then the deficiency shall be paid by the United States, agreeably to the terms of the said Loan."

Whereupon, a motion was made to postpone the motion for amendment, together with the report of the committee, until this day se'nnight; and on the question to agree to the postponement it passed in the affirmative—yeas 18, nays 11, as follows:

YEAS.—Messrs. Bingham, Bradford, Cabot, Foster, Frelinghuysen, Gunn, King, Latimer, Livermore, Read, Ross, Rutherford, and Trumbull.

NAYS.—Messrs. Bloodworth, Brown, Butler, Henry, Marshall, Martin, Mason, Potts, Robinson, Tattnell, and Tazewell.

On Motion, that Mr. BURR be permitted to vote on the question, having been absent when it was taken, it passed in the negative.

WEDNESDAY, April 27.

Mr. Ross, from the committee to whom was referred the bill, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," reported amendments; which were read, and ordered to be printed for the use of the Senate.

Mr. Ross, from the committee to whom was referred the bill "to authorize Ebenezer Zane to locate certain lands in the Territory of the United States Northwest of the river Ohio," reported amendments, which were read and adopted; and the bill was amended accordingly, and ordered to a third reading.

Mr. BINGHAM presented a memorial, signed by Walter Stewart and others, merchants, which was read, stating, that, in the years 1793, 1794, and

1795, they exported provisions, to a large amount, to the French West Indies, and sold them to the officers of the Colonial Administration of the Republic of France; and that other property was taken from them by force, by the said officers, at prices arbitrarily fixed by themselves; for all which the petitioners remain unpaid; and they, therefore, pray the interposition of Congress in their behalf.

Ordered, That the memorial be referred to Messrs. BINGHAM, KING, and BUTLER, to consider and report thereon to the Senate.

THURSDAY, April 28.

The bill to authorize Ebenezer Zane to locate certain lands in the Territory of the United States Northwest of the river Ohio, was read the third time, and, being further amended, was passed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
of the House of Representatives:*

Herewith I lay before you a Letter from the Attorney General of the United States, relative to compensation to the Attorneys of the United States in the several Districts, which is recommended to your consideration.

G. WASHINGTON.

UNITED STATES, April 28, 1796.

The Message and Letter referred to were read, and ordered to lie for consideration.

FRIDAY, April 29.

Mr. CABOT, from the committee to whom was referred the bill, entitled "An act making further provision relative to the revenue cutters," reported amendments, which were read and adopted.

Ordered, That this bill pass to the third reading.

The VICE PRESIDENT laid before the Senate a Report from the Attorney General, of the 28th instant, respecting the lands situated in the South-western parts of the United States; and the Report and papers therein referred to were read.

Ordered, That they be committed to Messrs. KING, TAZEWELL, and GUNN, to consider and report thereon to the Senate; and that the committee be instructed to have them printed.

Ordered, That the Message of the PRESIDENT OF THE UNITED STATES, referring to the Report of the Attorney General, on the compensation to the Attorneys of the several Districts of the United States be referred to Messrs. BLOODWORTH, BURR, and LIVERMORE, to consider and report thereon to the Senate.

MONDAY, May 2.

The bill sent from the House of Representatives for concurrence, entitled "An act making further provision relative to the revenue cutters," was read the third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to continue in force, for a limited time, an act, entitled 'An act declaring

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the consent of Congress to an act of the State of Maryland, passed the 28th day of December, one thousand seven hundred and ninety-three, for the appointment of a Health Officer," and a bill, entitled "An act to ascertain and fix the Military Establishment of the United States," in which bills they desire the concurrence of the Senate. They have also passed a resolution, and appointed a committee on their part, jointly with such committee as may be appointed on the part of the Senate, to consider and report what further business is necessary to be done during the present session, and at what time it will be proper to adjourn; in which they desire the concurrence of the Senate.

The bill sent from the House of Representatives for concurrence, entitled "An act to ascertain and fix the Military Establishment of the United States" was read, and ordered to a second reading.

The Senate proceeded to consider the resolution last brought from the House of Representatives for concurrence.

Resolved, That they concur therein, and that Messrs. KING and POTTS be of the joint committee on their part.

The Senate proceeded to consider the report of the committee to whom was referred the bill, entitled "An act providing for the sale of the Lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river;" and, after debate, the further consideration thereof was postponed until to-morrow.

TUESDAY, May 3.

On request, the VICE PRESIDENT was excused from attending in Senate, after Thursday next, for the remainder of the session.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making an appropriation towards defraying the expenses which may arise in carrying into effect the Treaty of Amity, Commerce, and Navigation, made between the United States and the King of Great Britain," and a bill, entitled "An act providing relief to the owners of stills within the United States, for a limited time, in certain cases;" in which bills they desire the concurrence of the Senate. They disagree to all the amendments of the Senate to the bill, entitled "An act for the relief and protection of American seamen," desire a conference on the subject-matter of the said amendments, and have appointed managers at the same on their part.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act authorizing a Loan for the use of the City of Washington, in the District of Columbia, and for other purposes therein mentioned."

On motion, further to postpone the consideration of this bill, it passed in the negative—yeas 4, nays 16, as follows:

YEAS.—Messrs. Bingham, Frelinghuysen, Ross, and Rutherford.

NAYS.—Messrs. Bradford, Brown, Burr, Cabot, Hen-

ry, King, Latimer, Livermore, Marshall, Mason, Potts, Read, Robinson, Tatnall, Tazewell, and Trumbull.

On motion to expunge the following words from the 2d section, line 16 to 20:

"And if the product of the sales of all the said lots shall prove inadequate to the payment of the principal and interest of the sums borrowed under this act, then the deficiency shall be paid by the United States, agreeably to the terms of the said loans"—

It passed in the negative—yeas 8, nays 16, as follows:

YEAS.—Messrs. Bingham, Burr, Butler, Frelinghuysen, Latimer, Robinson, Ross, and Rutherford.

NAYS.—Messrs. Bloodworth, Bradford, Brown, Cabot, Foster, Henry, King, Livermore, Marshall, Martin, Mason, Potts, Read, Tatnall, Tazewell, and Trumbull.

On motion to insert these words in the 1st section, after the words "six per centum per annum," "including all charges and expenses," it passed in the negative—yeas 10, nays 14, as follows:

YEAS.—Messrs. Bingham, Butler, Frelinghuysen, Gunn, King, Latimer, Martin, Robinson, Ross, and Rutherford.

NAYS.—Messrs. Bloodworth, Bradford, Brown, Cabot, Foster, Henry, Livermore, Marshall, Mason, Potts, Read, Tatnall, Tazewell, and Trumbull.

Ordered, That this bill pass to a third reading.

The second reading of the bill authorizing the settlement of the demands of Anthony Walton White against the United States was resumed; and, after debate, on motion that this bill be referred to a special committee, it passed in the negative.

Ordered, That the further consideration thereof be postponed until to-morrow.

The Senate proceeded to consider the resolution of the House of Representatives disagreeing to all the amendments of the Senate to the bill, entitled "An act for the relief and protection of American seamen," and desiring a conference on the subject-matter of the said amendments.

Resolved, That they do insist on their said amendments, and agree to the proposed conference; and that Messrs. KING and BURR be managers at the same on their part.

The bill sent from the House of Representatives for concurrence, entitled "An act providing relief to the owners of stills within the United States for a limited time, in certain cases," was read, and ordered to a second reading.

The bill sent from the House of Representatives for concurrence, entitled "An act making an appropriation towards defraying the expenses which may arise in carrying into effect the Treaty of Amity, Commerce, and Navigation, made between the United States and the King of Great Britain," was read the first time, and ordered to a second reading.

The bill sent from the House of Representatives for concurrence, entitled "An act to continue in force, for a limited time, an act, entitled 'An act declaring the consent of Congress to an act of the State of Maryland, passed the twenty-eighth of December, one thousand seven hundred and ninety

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three, for the appointment of a Health Officer," was read twice, and ordered to a third reading.

The petition of John Nicholson was presented and read, stating that he is a manufacturer of glass-ware, and praying Congress to lay a duty of twenty per centum ad valorem on imported glass, for the encouragement of the manufacture.

Ordered, That this petition lie on the table.

WEDNESDAY, May 4.

Mr. KING reported, from the joint committee appointed for that purpose, the business necessary to be passed upon previous to a recess; and that Congress may adjourn on the 20th instant; and the report was read, and ordered to lie for consideration.

The bill sent from the House of Representatives for concurrence, entitled "An act making an appropriation towards defraying the expenses which may arise in carrying into effect the Treaty of Amity, Commerce, and Navigation, made between the United States and the King of Great Britain," was read the second time, and referred to the committee appointed the 20th of April, on the several bills making appropriations for carrying into effect the Treaties between the United States and the King of Spain, between the United States and the Dey and Regency of Algiers, and between the United States and certain Indian tribes, to consider and report thereon to the Senate.

The bill sent from the House of Representatives for concurrence, entitled "An act providing relief to the owners of stills within the United States, for a limited time, in certain cases," was read the second time, and referred to Messrs. ROSS, FOSTER, and PORRIS, to consider and report thereon to the Senate.

The bill sent from the House of Representatives for concurrence, entitled "An act authorizing a Loan for the use of the City of Washington, in the District of Columbia, and for other purposes therein mentioned," was read the third time; and, on the question, Shall this bill pass? it was determined in the affirmative—yeas 16, nays 7, as follows:

YEAS.—Messrs. Bloodworth, Bradford, Brown, Cabot, Foster, Gunn, Henry, King, Livermore, Marshall, Martin, Potts, Read, Tattnell, Tazewell, and Trumbull.

NAYS.—Messrs. Bingham, Burr, Frelinghuysen, Latimer, Robinson, Ross, and Rutherford.

So it was resolved that this bill pass.

The bill sent from the House of Representatives for concurrence, entitled "An act to continue in force, for a limited time, an act, entitled 'An act declaring the consent of Congress to an act of the State of Maryland, passed the twenty-eighth December, one thousand seven hundred and ninety-three, for the appointment of a Health Officer,'" was read the third time, and passed.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of

Kentucky river;" and the report being amended, was adopted, and the bill amended accordingly.

Ordered, That this bill pass to a third reading.

Mr. KING, from the committee to whom were referred the following bills, to wit: the bill, entitled "An act making an appropriation towards defraying the expenses which may arise in carrying into effect the Treaty of Amity, Commerce, and Navigation, made between the United States and the King of Great Britain;" the bill, entitled "An act making an appropriation for defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the Dey and Regency of Algiers;" and the bill, entitled "An act making appropriations for defraying the expenses which may arise in carrying into effect the Treaty made between the United States and certain Indian tribes Northwest of the river Ohio"—reported that these bills severally pass without amendment; and that the bill, entitled "An act making an appropriation for defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the King of Spain," pass with amendments; and the report being adopted, the bill was amended accordingly.

On motion, it was agreed, by unanimous consent, to dispense with the rule, and that these bills be now severally read the third time.

Resolved, That these bills severally pass, agreeably to the report of the committee.

Ordered, That the Secretary acquaint the House of Representatives with the concurrence of the Senate to the bills providing for carrying into effect the three Treaties first mentioned: and desire their concurrence in the amendments of the Senate to the bill respecting the Treaty with the King of Spain.

Mr. BLOODWORTH reported, from the committee who had under consideration the Message of the PRESIDENT OF THE UNITED STATES, referring to the Report of the Attorney General on the compensation to the Attorneys of the several Districts of the United States; which report was read, and ordered to lie for consideration.

The bill sent from the House of Representatives for concurrence, entitled "An act to ascertain and fix the Military Establishment of the United States," was read the second time, and referred to Messrs. GUNN, FRELINGHUYSEN, and BRADFORD, to consider and report thereon to the Senate.

THURSDAY, May 5.

The bill, sent from the House of Representatives for concurrence, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," was read the third time.

On motion to amend section 7th of the report, so that the forfeiture of the money paid in case of failure in the contract be one half, instead of the whole sum advanced; it passed in the negative.

On motion to restore the words "streams or,"

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expunged from section 7th of the original bill; it passed in the negative.

On motion to affix the price of the land at two dollars the acre; it passed in the negative.

On motion, that the bill be further amended, it was agreed to postpone the consideration thereof until to-morrow.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for compensating Jonathan Hastings, Deputy Postmaster at Boston, for extra services;" a bill entitled "An act for the relief of Moses Myers;" a bill entitled "An act for the relief of Samuel Brown;" a bill entitled "An act authorizing the erection of a light-house on Cape Cod, in the State of Massachusetts;" a bill entitled "An act allowing compensation for horses killed in battle, belonging to officers of the Army of the United States;" and a bill entitled "An act in addition to an act entitled 'An act supplementary to the act entitled 'An act to provide more effectually for the collection of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels,'" in which bills they desire the concurrence of the Senate.

The bills last brought from the House of Representatives for concurrence were severally read, and ordered to a second reading.

The Senate proceeded to consider the report of the committee to whom was referred the Message of the PRESIDENT OF THE UNITED STATES, of the 28th of April last, respecting the compensation to the District Attorneys of the United States: and having adopted the same, the bill was recommitted, with an instruction to the committee to report a bill accordingly.

Ordered, That the bill authorizing the settlement of the demands of Anthony Walton White against the United States, be postponed until the next session of Congress.

Mr. KING reported from the committee appointed to consider the Message of the PRESIDENT OF THE UNITED STATES of the 8th of April last, respecting a new State Southwest of the river Ohio; and the report was read, and ordered to be printed for the use of the Senate.

FRIDAY, May 6.

The VICE PRESIDENT being absent, the Senate proceeded to the choice of a President *pro tempore*, as the Constitution provides; and SAMUEL LIVERMORE was duly elected.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making provision for the payment of certain debts of the United States;" and a bill, entitled "An act to repeal so much of an act, entitled 'An act to establish the Judicial Courts of the United States,' as directs that alternate sessions of the Circuit Court for the District of Pennsylvania shall be holden at Yorktown, and for other purposes;" in which bills they desire the concurrence of the Senate.

The bill, sent from the House of Representa-

tives for concurrence, entitled "An act to repeal so much of an act, entitled 'An act to establish the Judicial Courts of the United States,' as directs that alternate sessions of the Circuit Court for the District of Pennsylvania shall be holden at Yorktown, and for other purposes," was read the first time, and ordered to a second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act making provision for the payment of certain debts of the United States," was read twice, and referred to Messrs. BINGHAM, CABOT, and KING, to consider and report thereon to the Senate.

Mr. BLOODWORTH, from the committee appointed for that purpose, reported a bill to provide for the compensation of the District Attorneys of the United States; which was read, and ordered to a second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act allowing compensation for horses killed in battle, belonging to officers of the Army of the United States," was read the second time, and referred to Messrs. ROSS, MARTIN, and BRADFORD, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act in addition to an act, entitled 'An act supplementary to the act, entitled 'An act to provide more effectually for the collection of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels,'" was read the second time, and referred to Messrs. POTTS, CABOT, and BINGHAM, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Moses Myers," was read the second time, and referred to Messrs. FRELINGHUYSEN, FOSTER, and TATNALL, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act authorizing the erection of a light-house on Cape Cod, in the State of Massachusetts," was read the second time, and referred to Messrs. RUTHERFORD, BRADFORD, and CABOT, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Samuel Brown," was read the second time, and referred to the committee last named, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for compensating Jonathan Hastings, Deputy Postmaster at Boston, for extra services," was read the second time, and referred to Messrs. GUNN, BRADFORD, and CABOT, to consider and report thereon to the Senate.

The Senate resumed the third reading of the bill, sent from the House of Representatives for concurrence, entitled "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river."

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On motion, it was agreed to amend the second section reported by the committee, line 15th, by inserting, after the word 'by,' the words following:

"Running through the same each way, parallel lines, at the end of every two miles; and by marking a corner on each of the said lines, at the end of every mile, the sections shall be numbered respectively, beginning with the number one, in the northeast section, and proceeding west and east alternately, through the township, with progressive numbers, till the thirty-sixth be completed. And it shall be the duty of the Deputy Surveyors, respectively, to cause to be marked, on a tree, near each corner made as aforesaid, and within the section, the number of such section, and over it the number of the township within which such section may be; and the said Deputies shall carefully note in their respective field-books the names of the corner trees marked, and the numbers so made."

On motion, it was agreed to reconsider the amendment to the 4th section of the original bill, and to concur in fixing the price of the land at two dollars per acre.

On motion, to insert a new section, as follows:

"And be it enacted, That aliens, residing within the United States or elsewhere, shall be capable of purchasing and holding the lands directed to be sold by this act, and their heirs may succeed them *ab intestato*, in the same manner as if they were citizens; and they may grant, sell, and devise, the same to whom they please, whether citizens or aliens, and that neither they, their heirs, or assigns, shall, so far as may respect the said lands, and the legal remedies incident thereto, be regarded as aliens."

It passed in the negative—yeas 11, nays 11, as follows:

YEAS.—Messrs. Bingham, Bradford, Burr, Cabot, Foster, Gunn, Marshall, Potts, Read, Ross, and Rutherford.

NAYS.—Messrs. Bloodworth, Brown, Frelinghuysen, Henry, King, Latimer, Martin, Strong, Tattnell, Tazewell, and Trumbull.

The PRESIDENT determined the question in the negative.

Resolved, That this bill pass with the amendments.

MONDAY, May 9.

On motion, that a paper purporting to be the appointment of WILLIAM BLOUNT and WILLIAM COCKE, respectively, to seats in the Senate, should be read, it was agreed that the motion be postponed until to-morrow.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act laying duties on carriages for the conveyance of persons, and repealing the former act for that purpose;" and a bill, entitled "An act for the relief of Sylvanus Bourne;" in which they desire the concurrence of the Senate.

Mr. Ross, from the committee to whom was referred the bill, entitled "An act allowing compensation for horses killed in battle, belonging to officers of the Army of the United States," reported that the bill pass without amendment; and the report was adopted.

The bill was then read a third time, and passed. Mr. GUNN, from the committee to whom was referred the bill, entitled "An act to ascertain and fix the Military Establishment of the United States," reported amendments; which were read.

Ordered, That the amendments be printed for the use of the Senate.

Mr. BINGHAM, from the committee to whom was referred the bill, entitled "An act making provision for the payment of certain debts of the United States," reported amendments; which were read, and in part adopted.

Ordered, That the further consideration thereof be postponed until to-morrow.

The bill, sent from the House of Representatives for concurrence, entitled "An act to repeal so much of an act, entitled 'An act to establish Judicial Courts of the United States,' as directs that alternate sessions of the Circuit Court for the District of Pennsylvania shall be holden at Yorktown, and for other purposes," was read the second time, and ordered to a third reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Sylvanus Bourne," was read, and ordered to a second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act laying duties on carriages for the conveyance of persons, and repealing the former act for that purpose," was read twice, and referred to Messrs. RUTHERFORD, TAZEWELL, and BURR, to consider and report thereon to the Senate.

The PRESIDENT laid before the Senate a Letter from the Treasurer of the United States, accompanying his account of receipts and expenditures in the War Department, for the quarter ending the 31st of March last; which were read, and ordered to lie on the table.

TUESDAY, May 10.

Mr. GUNN, from the committee to whom was referred the bill, entitled "An act for compensating Jonathan Hastings, Deputy Postmaster, at Boston, for extra services," reported an amendment, which was read, and the consideration thereof postponed.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act making provision for the payment of certain debts of the United States."

Ordered, That the further consideration thereof be postponed.

The bill to provide for the compensation of the District Attorneys of the United States was read the second time, amended, and ordered to a third reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act altering the sessions of the Circuit Courts in the districts of Vermont and Rhode Island, and for other purposes," in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to a second reading.

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The bill, sent from the House of Representatives for concurrence, entitled "An act to repeal so much of an act entitled 'An act to establish the Judicial Courts of the United States,' as directs that alternate sessions of the Circuit Court, for the district of Pennsylvania, shall be holden at Yorktown, and for other purposes;" was read the third time and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act for the relief of Sylvanus Bourne," was read the second time, and referred to Messrs. FOSTER, MARTIN, and LANGDON, to consider and report thereon to the Senate.

Ordered, That the consideration of the paper, purporting to be the appointment of WILLIAM BLOUNT and WILLIAM COCKE to a seat in the Senate, respectively, be postponed until Friday next.

The Senate took into consideration the report of the committee to whom was referred the Message of the PRESIDENT of the UNITED STATES, of the 8th of April last, respecting a new State South of the river Ohio; and, after debate,

Ordered, That the further consideration thereof be postponed.

WEDNESDAY, May 11.

Ordered, That the bill, entitled "An act making provision for the payment of certain debts of the United States," be recommitted.

The bill to provide for the compensation of the District Attorneys of the United States was read a third time, and postponed to the next session of Congress.

The Senate resumed the consideration of the report of the committee to whom was referred the Message of the PRESIDENT, of the 8th of April last, respecting a new State South of the river Ohio.

A motion was made to strike out of the report the following words: "and providing for an enumeration of the inhabitants thereof, in the manner prescribed in the act, entitled 'An act providing for the enumeration of the inhabitants of the United States,' passed on the first day of March, one thousand seven hundred and ninety;" and, after debate, the further consideration thereof was postponed.

A message from the House of Representatives informed the Senate that the House agree to the amendments of the Senate to the bill, entitled "An act providing for the sale of the lands of the United States, in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," with amendments; in which they desire the concurrence of the Senate. They have passed a bill, sent from the Senate for concurrence, entitled "An act to authorize Ebenezer Zane to locate certain lands in the Territory of the United States, Northwest of the river Ohio," with amendments, in which they desire the concurrence of the Senate.

Mr. RUTHERFORD, from the committee to whom was referred the bill entitled "An act authorizing the erection of a light-house on Cape Cod, in the

State of Massachusetts," reported that the bill pass, with amendment.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to authorize Ebenezer Zane to locate certain lands in the Territory of the United States, Northwest of the river Ohio."

Resolved, That they do concur in the amendments.

The Senate proceeded to consider the amendments of the House of Representatives, to the amendments of the Senate, to the bill, entitled "An act providing for the sale of the lands of the United States, in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river;" and

Ordered, That they be referred to the committee who were originally appointed to consider the bill, who are to report thereon to the Senate.

Mr. CABOT gave notice that he would to-morrow ask permission to introduce a bill, providing passports for the ships and vessels of the United States.

The bill sent from the House of Representatives for concurrence, entitled "An act altering the sessions of the Circuit Courts in the Districts of Vermont and Rhode Island, and for other purposes," was read the second time and referred to Messrs. BRADFORD, ROBINSON, and FOSTER, to consider and report thereon to the Senate.

THURSDAY, May 12.

The Senate proceeded to consider the amendment reported by the committee to whom was referred the bill, entitled "An act authorizing the erection of a light-house on Cape Cod, in the State of Massachusetts," which was adopted.

Ordered, That the bill pass to the third reading.

Mr. ROSS reported from the committee to whom were referred the amendments of the House of Representatives to the amendments of the Senate to the bill, entitled "An act providing for the sale of the lands of the United States, in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," that the Senate agree to all the amendments to the amendments, except to the first, and that they disagree to the first, and ask a conference on the disagreeing votes of the two Houses; and the report was adopted.

Ordered, That Messrs. ROSS and KING be managers at the conference on the part of the Senate.

Mr. ROSS reported, from the committee to whom was referred the bill, entitled, "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," that the bill pass without amendment.

Ordered, That the consideration of this report be postponed.

Mr. RUTHERFORD reported, from the committee to whom was referred the bill, entitled "An act for the relief of Samuel Brown," that the bill do not pass; and the report was agreed to; and on the question that this bill be read the third time, it passed in the negative. So the bill was rejected.

Conformable to notice given yesterday, Mr.

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CABOT had permission to introduce a bill, providing passports for the ships and vessels of the United States; which bill was read, and ordered to a second reading.

On motion, it was agreed, by unanimous consent, that Mr. STRONG have permission to introduce a bill to continue in force, for a limited time, the acts therein mentioned.

Mr. BINGHAM reported, from the committee to whom was recommitted the bill, entitled "An act making provision for the payment of certain debts of the United States; which report was in part rejected; and, after debate, the further consideration of the report was postponed.

The Senate resumed the consideration of the report of the committee to whom was referred the Message of the PRESIDENT OF THE UNITED STATES, of the 8th of April last, respecting a new State South of the river Ohio.

Ordered, That the further consideration thereof be postponed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to prevent the sale of prizes brought into the United States, by vessels belonging to any foreign Prince or State;" in which they desire the concurrence of the Senate.

They recode from their amendment, disagreed to by the Senate, to their amendment to the bill, entitled "An act providing for the sale of the lands of the United States, in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river."

The bill last brought from the House of Representatives for concurrence was read, and ordered to a second reading.

FRIDAY, May 13.

The bill, sent from the House of Representatives for concurrence, entitled "An act authorizing the erection of a light-house on Cape Cod, in the State of Massachusetts," was read the third time and passed.

The bill providing passports for the ships and vessels of the United States, was read the second time, and the further consideration thereof postponed.

The Senate proceeded to consider the report of the committee to whom was referred the bill, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers;" and the report of the committee being adopted, the bill was ordered to a third reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act relative to quarantine," in which they desire the concurrence of the Senate.

The bill, entitled "An act relative to quarantine," was read twice, and referred to Messrs. RUTHERFURD, BINGHAM, and LANGDON, to consider and report thereon to the Senate.

Mr. POTTS, from the committee to whom was referred the bill, entitled "An act in addition to an act, entitled 'An act supplementary to the act, entitled, 'An act to provide more effectually for

the collection of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels,'" reported amendments.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act making provision for the payment of certain debts of the United States;" and, after debate, the further consideration thereof was postponed.

The Senate resumed the consideration of the report of the committee to whom was referred the Message of the PRESIDENT OF THE UNITED STATES, of the 8th of April last, respecting a new State South of the river Ohio; together with the motion for amendment on the 11th instant under consideration; and a motion was made to postpone the proposed amendment to the report, in order to introduce a more general one; and, after debate, the Senate adjourned.

SATURDAY, May 14.

The bill, sent from the House of Representatives for concurrence, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," was read the third time.

On motion to subjoin the following to the end of the third section :

"Provided that the said penalty shall not be inflicted on any person or persons who may have crossed the line in search of stray horses, cattle, or any other stock :"

It passed in the negative—yeas 11, nays 13, as follows :

YEAS.—Messrs. Bloodworth, Brown, Burr, Butler, Gunn, Henry, Langdon, Martin, Robinson, Tattnall, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Cabot, King, Latimer, Livermore, Marshall, Potts, Read, Ross, Rutherford, Strong, and Trumbull.

On motion to expunge from the 2d and 3d lines of the 3d section, the words "South of the river Ohio," it passed in the negative.

On motion to expunge the 3d section, which is as follows :

"SEC. 3. *And be it further enacted*, That, if any such citizen or other person shall go into any country which is allotted or secured by Treaty, as afore-said, to any of the Indian tribes, South of the river Ohio, without a passport first had and obtained, from the Governor of some one of the United States, or the officer of the troops of the United States commanding at the nearest post on the frontiers, or such other person as the President of the United States may, from time to time, authorize to grant the same, shall forfeit a sum not exceeding fifty dollars, or be imprisoned not exceeding three months."

It passed in the negative—yeas 11, nays 14, as follows :

YEAS.—Messrs. Bloodworth, Brown, Burr, Butler, Gunn, Langdon, Marshall, Martin, Robinson, Tattnall, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Cabot, Foster, Henry, King, Latimer, Livermore, Potts, Read, Ross, Rutherford Strong, and Trumbull.

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The question on the bill was determined in the affirmative—yeas 17, nays 8, as follows :

YEAS.—Messrs. Bingham, Bradford, Cabot, Foster, Henry, King, Langdon, Latimer, Livermore, Marshall, Martin, Potts, Read, Ross, Rutherford, Strong, and Trumbull.

NAYS.—Messrs. Bloodworth, Brown, Burr, Butler, Gunn, Robinson, Tatnall, and Tazewell.

So it was *Resolved*, That this bill pass.

The bill to continue in force, for a limited time, the acts therein mentioned, was read the second and third times, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act to prevent the sale of the prizes brought into the United States by vessels belonging to any foreign Prince or State," was read the second time, and referred to Messrs. READ, BURR, and CABOT, to consider and report thereon to the Senate.

The Senate resumed the consideration of the report of the committee to whom was referred the Message of the PRESIDENT OF THE UNITED STATES, of the 8th of April last, respecting a new State South of the river Ohio; together with the motion for amendment made on the 11th; and on the question to agree to the proposed amendment, it passed in the negative.

On motion, it was agreed to amend the report by inserting, after the first paragraph, immediately subsequent to the words "original States," these words :

"On the 9th of July, 1787, the State of South Carolina ceded, without any condition whatever, their claims to all lands lying between the Mississippi and the ridge of mountains which divides the Western from the Eastern waters; the same being South of, and contiguous to, the Territory ceded by North Carolina, and uninhabited except by Indians."

Also, to add, after the words "act of cession," in the second instance, the words "of North Carolina;" and, in the same line, to strike out the word "same," and insert "Territory thereby ceded."

It was further agreed, to expunge the words, "ceded by North Carolina," and insert "South of the Ohio."

On motion to expunge the whole of the report, after the word "district," and to substitute the following :

"In the year 179—, proofs satisfactory to the Governor of the said Territory having been given that there were more than five thousand free male inhabitants in the said last-mentioned Territory, Representatives were chosen, and a Government organized, pursuant to the provision of the said ordinance in such case declared; the Governor and Council being appointed by, and removable at the pleasure of, the President. On the 11th of July, 1795, an act was passed by the Legislature of the said Territory for taking a census of the inhabitants thereof; and it appearing, from the census so taken, that there were more than sixty thousand free inhabitants in the said Territory, the said Governor, on the 28th of November, 1795, issued his Proclamation, as by the said last-mentioned act is prescribed, requiring the said inhabitants to choose persons to represent them in Convention for the purpose of forming a Constitution or permanent form of Government.

"The persons so chosen, met in Convention, on the 11th of January, 1796, declared the people of that part of the said Territory, which was ceded by North Carolina to be a free and independent State, by the name of the State of Tennessee, (a great majority of the said inhabitants having expressed their wish to form together one State,) and for their permanent Government, expressly recognising the aforesaid Ordinance of Congress, formed a Constitution consistent with the principles and articles thereof.

"By the provisions of the Constitution so formed, the Legislature thereby directed to be chosen was required to meet on the last Monday in March then next, for the avowed purpose of obtaining a representation in Congress during the present session. The Legislature met accordingly, and the temporary Government established in the said Territory has ceased and been suspended. Due notice of all the aforesaid acts and proceedings has, from time to time, been given by the Governor of the said Territory to the Government of the United States, and no dissatisfaction thereupon expressed by the latter.

"Upon the preceding state of facts, the committee remark, 1st. That, although Congress have not, by any formal and direct act declared that the Territory South of the Ohio, should, for the purpose of permanent Government, be one State; yet, inasmuch as it doth appear to be the desire of a great majority of the inhabitants thereof, that so much of the said Territory as is contained within the cession of North Carolina should be formed into one State; and, as the Government of the United States hath acquiesced in the proceedings founded on that idea; considering, also, the dissatisfaction and temporary anarchy which would probably be produced by the attempt to dissolve the permanent Government, so formally established, and to divide the said Territory into two or more States, subject to the temporary Government of the United States: it doth appear to the committee to be highly expedient, if not obligatory on the United States, to lay out into one State the whole of the Territory ceded by North Carolina.

"2d. That, although the law directing the said census doth not, so far as regards the enumeration of transient persons, provide the check contained in the act for the enumeration of the inhabitants of the United States; yet, seeing that the said law was passed, and made with the assent of the Governor and Council appointed by, and removable at, the pleasure of the Government of the United States, and executed by officers also appointed by the same authority—seeing that no material error in fact can probably have been made by reason of the supposed inaccuracy of the said law, and that, by the enumeration aforesaid, there doth appear to have been, in the month of November, 1795, upwards of 67,000 free inhabitants, and upwards of 10,000 slaves, in the said Territory, the committee are of opinion that the census so taken, is and ought to be deemed satisfactory evidence that the said Territory doth contain 60,000 free inhabitants.

"The committee therefore recommend the following resolutions :

"*Resolved*, That the Territory of the United States South of the Ohio, which hath been ceded by North Carolina, be one State, and that the same be and hereby is acknowledged as one of the United States, by the name of the State of Tennessee, and entitled to a representation in Congress, "on an equal footing with the original States in all respects whatsoever," according to the Constitution of the United States.

"2. *Resolved*, That, until the next General Census, the State of Tennessee shall be entitled to send — members to the House of Representatives."

And, on the question to agree to this amendment, it passed in the negative—yeas 9, nays 14, as follows :

YEAS.—Messrs. Bloodworth, Brown, Burr, Butler, Henry, Langdon, Martin, Robinson, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Cabot, Foster, Gunn, King, Latimer, Livermore, Potts, Read, Ross, Rutherford, Strong, and Trumbull.

MONDAY, May 16.

On motion, the Senate resumed the second reading of the bill, entitled "An act making provision for the payment of certain debts of the United States."

On motion, to add at the end of the third section, in lieu of the proviso, the following words :

"And it shall be lawful for the Commissioners of the Sinking Fund, if they shall find the same to be most advantageous, to sell such, and so many, of the shares of the stock of the Bank of the United States, belonging to the United States, as they may think proper ; and that they apply the proceeds thereof to the payment of the said debts, instead of selling certificates of stock, in the manner prescribed in this act."

It passed in the affirmative—yeas 13, nays 12, as follows :

YEAS.—Messrs. Bloodworth, Brown, Burr, Butler, Henry, Langdon, Marshall, Martin, Robinson, Ross, Rutherford, Tattall, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Cabot, Foster, Gunn, King, Latimer, Livermore, Potts, Read, Strong, and Trumbull.

And the bill being further amended, it was ordered to a third reading.

The Senate resumed the consideration of the report of the committee to whom was referred the Message of the PRESIDENT OF THE UNITED STATES, of the 8th of April last, respecting a new State South of the river Ohio ; and sundry other amendments being agreed to, a motion was made to insert, after the word "district," the following :

"In the year 179—, proofs satisfactory to the Governor of the said Territory having been given, that there were more than five thousand free male inhabitants in the said last mentioned Territory, Representatives were chosen, and a Government organized, pursuant to the provision of the said ordinance in such case declared : the Governor and Council being appointed by, and removable at the pleasure of, the President. On the 11th of July, 1795, an act was passed by the Legislature of the said Territory for taking a census of the inhabitants thereof ; and it appearing from the census so taken, that there were more than sixty thousand free inhabitants in the said Territory, the said Governor, on the 28th of November, 1795, issued his proclamation, as by the said last mentioned acts is prescribed, requiring the said inhabitants to choose persons to represent them in Convention, for the purpose of forming a Constitution or permanent form of Government. The persons so chosen, met in Convention, on the 11th of January, 1796, declared the people of that part of the said Territory which was ceded by North Carolina to be a free and

independent State, by the name of the State of Tennessee, (a great majority of the said inhabitants having expressed their wish to form together one State,) and, for their permanent Government, expressly recognising the aforesaid ordinance of Congress, formed a Constitution consistent with the principles and articles thereof.

"By the provisions of the Constitution, so formed, the Legislature, thereby directed to be chosen, was required to meet on the last Monday in March then next, for the avowed purpose of obtaining a representation in Congress during the present session. The Legislature met accordingly, and the temporary Government established in the said Territory has ceased and been superseded. Due notice of all the aforesaid acts and proceedings has, from time to time, been given by the Governor of the said Territory to the Government of the United States, and no dissatisfaction thereupon expressed by the latter :"

It passed in the negative—yeas 9, nays 15, as follows :

YEAS.—Messrs. Bloodworth, Brown, Burr, Butler, Henry, Langdon, Martin, Robinson, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Cabot, Foster, Gunn, King, Latimer, Livermore, Potts, Read, Ross, Rutherford, Strong, Tattall, and Trumbull.

And, on the question to agree to the report, as amended, it passed in the affirmative—yeas 14, nays 11, as follows :

YEAS.—Messrs. Bingham, Bradford, Cabot, Foster, Gunn, King, Latimer, Livermore, Potts, Read, Ross, Rutherford, Strong, and Trumbull.

NAYS.—Messrs. Bloodworth, Brown, Burr, Butler, Henry, Langdon, Marshall, Martin, Robinson, Tattall, and Tazewell.

So the report was adopted, as follows :

"The report of the committee to whom was referred the Message of the President of the United States of the 8th of April, 1796, relative to the Territory of the United States South of the river Ohio.

"By the Deed of Cession of the State of Virginia, the United States are bound to lay off the Territory Northwest of the river Ohio into States, not less than one hundred nor more than one hundred and fifty miles square. And, by the Ordinance of the 13th day of July, 1787, Congress resolved that, so soon as Virginia should, by law, consent to the laying off the said Territory, so as to form three States, that the same should be bounded in the manner therein specified. By the same Ordinance the whole of the Territory of the United States Northwest of the Ohio is made one district for the purpose of temporary Government, and it is therein declared that, as soon as any one of the said States, so to be laid out as aforesaid, should contain sixty thousand free inhabitants, the same should be admitted by their Delegates into Congress on an equal footing with the original States.

"On the 9th of July, 1787, the State of South Carolina ceded, without any condition whatever, their claims to all lands lying between the Mississippi and the ridge of mountains which divides the Western from the Eastern waters ; the same being South of, and contiguous to, the Territory ceded by North Carolina, and uninhabited except by Indians.

"By the Deed of Cession of the State of North Carolina, of the lands therein described, it is made a condition that the Territory so ceded shall be laid out, and formed into a State or States, containing a suitable extent

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of territory; the inhabitants of which shall enjoy all the privileges set forth in the Ordinance for the government of the Western Territory of the United States. By the act for the government of the Territory of the United States South of the river Ohio, the whole of the said Territory, for the purpose of temporary Government, is made one district, and it is declared, that the inhabitants thereof shall enjoy all the privileges set forth in the Ordinance for the Government of the Territory of the United States Northwest of the Ohio. As, in the Territory Northwest of the Ohio, it is necessary that the same shall, by Congress, be laid out into States, according to the conditions of the act of cession, or to the provisions expressed in the Ordinance of Congress, and that such States shall each contain sixty thousand free inhabitants before they are entitled to be admitted into the Union; so, in the Territory South of the Ohio, Congress are obliged, by the act of cession of North Carolina, to lay out the Territory thereby ceded into one or more States, the inhabitants of which, so soon as they shall amount to sixty thousand free persons, will be entitled to be admitted into the Union.

"Congress have declared that the whole of the Territory Northwest of the Ohio, shall, for the purpose of temporary Government, compose one district; and, likewise, that the whole of the Territory South of the Ohio shall, for the like purpose, compose one district; but they have not definitely laid out the Territory Northwest of the Ohio into States, nor have they decided whether the Territory South of the Ohio shall be laid out into one or more States. If the district Northwest of the Ohio contained more than sixty thousand free inhabitants, it would not, from thence follow that the District could demand admission as a new State into the Union, because the District must, by the terms of its cession, be previously divided into a number of States, the free inhabitants of each of which must amount to sixty thousand, before such State would have a right of admission into the Union; in like manner, although the District South of the river Ohio should contain sixty thousand free inhabitants, it cannot from thence be inferred, that the District, or that portion thereof, ceded by North Carolina, would have a right to be admitted as a new State into the Union, because Congress have not decided whether the same shall compose a single State, or be laid out into two or more States. The number of inhabitants which establishes a claim of admission must be the number of inhabitants of a State previously laid out, and defined in its boundaries by Congress, and not the number of inhabitants of a Territory which, for the purpose of temporary Government, composes a District which may be divided by Congress into several States.

"Hence results this conclusion;

"That Congress must have previously enacted that the whole of the Territory ceded by North Carolina, and which is only a part of the Territory of the United States South of the Ohio, should be laid out by Congress for one State, before the inhabitants thereof (admitting them to amount to sixty thousand free persons) could claim to be admitted as a new State into the Union.

"Had the Territory South of the Ohio, which, for the purpose of temporary Government, composes one district, been laid out by Congress into one State, the enumeration of the inhabitants, in order to ascertain whether such State was entitled to be received into the Union, ought to have been made under the authority of Congress: For the enumeration of the inhabitants of the original States for the purpose of apportioning the

Representatives, and ascertaining a rule for the apportionment of direct taxes, must, by the Constitution, be made by Congress, and cannot be made by the individual States. And as the rights of the original States, as members of the Union, are affected by the admission of new States, the same principle which enjoins the census of their inhabitants to be taken under the authority of Congress, requires the enumeration of the inhabitants of any new State laid out by Congress, in like manner to be made under their authority. Did not the principles of the Constitution seem to leave Congress without discretion on this point? Yet the propriety of the enumeration being made under their authority will be manifest, on comparing the fifth section of the law for the enumeration of the inhabitants of the United States with the law under which the census has lately been taken in the Territory South of the Ohio. By this comparison it will be perceived that the guards against error, provided in the former law, are omitted in the latter, and that, instead of confining the enumeration to the free inhabitants of the Territory South of the Ohio, the law authorizes and requires the enumeration of all the people within the said Territory at any time within the term allowed to complete the same, including as well the persons casually within or passing through the said Territory, as the inhabitants thereof.

"From the preceding view of the subject, the committee are of opinion that the inhabitants of that part of the Territory South of the Ohio, ceded by North Carolina, are not at this time entitled to be received as a new State into the Union.

"But, as the said Territory ceded by North Carolina may, by Congress, be laid out into one State, although, from the distance between its extreme parts, the inhabitants thereof may thereby be exposed to some inconvenience, and, as it appears to be the desire of a majority of the inhabitants of the said Territory to be received as a new State into the Union, the committee recommend that leave be given to bring in a bill laying out the whole of the said territory ceded by North Carolina into one State, and providing for an enumeration of the inhabitants thereof, in the manner proscribed in the act, entitled 'An act providing for the enumeration of the inhabitants of the United States,' passed on the 1st day of March, 1790."

Ordered, That the report be recommitted, and that the committee be instructed to bring in a bill accordingly.

The bill providing passports for the ships and vessels of the United States, was read the second time and amended.

Ordered, That this bill pass to the third reading.

The Senate proceeded to consider the report of the committee to whom was referred the bill, entitled "An act in addition to an act, entitled 'An act supplementary to the act, entitled 'An act to provide more effectually for the collection of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels,' which was adopted, and the bill amended accordingly.

Ordered, That this bill pass to the third reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making an additional allowance to certain public officers for the year

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1796," in which they desire the concurrence of the Senate.

The bill last brought from the House of Representatives for concurrence, was read, and ordered to a second reading.

TUESDAY, May 17.

The bill providing passports for the ships and vessels of the United States, was read the third time and passed.

The bill sent from the House of Representatives for concurrence, entitled "An act making an additional allowance to certain public officers for the year 1796," was read the second time, and referred to Messrs. GUNN, BUTLER, BROWN, BURR, and STRONG, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act making provision for the payment of certain Debts of the United States," was read the third time.

On motion to expunge the clause, agreed to yesterday in addition to the third section, as follows:

"And it shall be lawful for the Commissioners of the Sinking Fund, if they shall find the same to be most advantageous, to sell such and so many of the shares of the stock of the Bank of the United States, belonging to the United States, as they may think proper; and that they apply the proceeds thereof to the payment of the said Debts, instead of selling certificates of stock, in the manner prescribed in this act."

It passed in the negative—yeas 8, nays 12, as follows:

YEAS.—Messrs. Bingham, Bradford, Cabot, Gunn, Latimer, Livermore, Strong, and Trumbull.

NAYS.—Messrs. Bloodworth, Brown, Butler, Henry, Langdon, Marshall, Martin, Potts, Robinson, Rutherford, Tattnall, and Tazewell.

On motion to insert, in the amendment agreed to yesterday, to the third section, after the word "proper," the following words: "so far as may be consistent with existing laws;" it passed in the negative—yeas 12, nays 13, as follows:

YEAS.—Messrs. Bingham, Bradford, Burr, Cabot, Gunn, King, Latimer, Read, Ross, Rutherford, Strong, and Trumbull.

NAYS.—Messrs. Bloodworth, Brown, Butler, Foster, Henry, Langdon, Livermore, Marshall, Martin, Potts, Robinson, Tattnall, and Tazewell.

On motion to insert, after the word "that," section third, line first, these words: "for two millions of the aforesaid five millions:" it passed in the negative.

On motion, it was agreed to insert, at the end of the amendment to the first section, the following words: "and to sell the stock received for such loan."

On the question to agree to the bill as amended, it was determined in the affirmative—yeas 14, nays 10, as follows:

YEAS.—Messrs. Bingham, Brown, Burr, Henry, Langdon, Latimer, Marshall, Martin, Potts, Robinson, Ross, Rutherford, Tattnall, and Tazewell.

NAVS.—Messrs. Bradford, Butler, Cabot, Foster, Gunn, King, Livermore, Read, Strong, and Trumbull.

So it was resolved that this bill pass as amended.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen;" and a bill, entitled "An act altering the compensation of the Accountant of the War Department;" in which they desire the concurrence of the Senate.

The bills last mentioned were severally read, and ordered to a second reading.

On motion, it was agreed, by unanimous consent to dispense with the rule, and that the bill, entitled "An act regulating the grants of land appropriated for military services and for the Society of the United Brethren for propagating the Gospel among the Heathen," be now read a second time.

Ordered, That this bill be referred to Messrs. Ross, READ, and KING, to consider and report thereon to the Senate.

The bill sent from the House of Representatives for concurrence, entitled "An act in addition to an act, entitled 'An act supplementary to an act, entitled 'An act to provide more effectually for the collection of the duties on goods, wares and merchandise, imported into the United States, and on the tonnage of ships or vessels,'" was read the third time, and sundry amendments agreed to.

Ordered, That the further consideration thereof be postponed until to-morrow.

The Senate proceeded to consider the report of the committee to whom was referred the bill, entitled "An act to ascertain and fix the Military Establishment of the United States;" and, after debate,

Ordered, That the bill, together with the amendments, be recommitted; and that Mr. Ross be of the committee in place of Mr. FRELINGHUYSEN, absent by permission; and the committee are instructed to report generally thereon.

WEDNESDAY, May 18.

The bill sent from the House of Representatives for concurrence entitled "An act altering the compensation of the Accountant of the War Department," was read the second time, and referred to the committee appointed on the bill, entitled "An act making an additional allowance to certain public officers for the year 1796," to consider and report to the Senate.

Mr. BINGHAM, from the committee to whom was referred the memorial of the citizens of the United States who have suffered from French spoliations, reported:

"That, considering the advanced period of the session, it will be expedient to refer the said memorial to the Secretary of State, in order that he may investigate the nature and extent of the claims exhibited therein, and report on the same at the next meeting of Congress."

And the report was adopted.

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Mr. RUTHERFORD, from the committee to whom was referred the bill, entitled "An act laying duties on carriages for the conveyance of persons, and repealing the former act for that purpose," reported amendments; which were in part adopted; and the bill was amended accordingly.

Ordered, That this bill pass to the third reading.

Mr. KING, from the committee instructed for that purpose, reported a bill laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof; which bill was read, and ordered to a second reading.

Mr. CAROL, from the committee to whom was referred the bill to regulate the Mint of the United States, and to punish frauds, by counterfeiting the coins thereof, or otherwise, reported a new bill; which was read and ordered to a second reading.

A message from the House of Representatives informed the Senate that the House have passed a resolution that the PRESIDENT of the Senate and SPEAKER of the House of Representatives be authorized to close the present session, by adjourning their respective Houses on Wednesday, the 25th instant; also, a bill, entitled "An act in addition to an act, entitled 'An act to establish the Post Office and Post Roads within the United States;'" in which bill and resolution they desire the concurrence of the Senate.

The resolution last brought from the House of Representatives for concurrence, was read, and ordered to lie for consideration.

The bill last brought from the House of Representatives for concurrence, was read twice, and its consideration postponed to the next session of Congress.

The Senate resumed the third reading of the bill sent from the House of Representatives for concurrence, entitled "An act in addition to an act, entitled 'An act supplementary to the act, entitled 'An act to provide more effectually for the collection of the duties on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships or vessels.'"

On motion, it was agreed to insert the following words after "vessels," in section four, line four, "and, also, all provisions by law relative to exports and drawbacks."

On motion to add the following to the end of the fourth section:

"*Provided always*, That spirits distilled from domestic materials, exported by way of the Mississippi, shall be entitled to a drawback, although exported in vessels of less than thirty tons burden:"

It passed in the negative.

Resolved, That this bill pass as amended.

TUESDAY, May 19.

The bill sent from the House of Representatives for concurrence, entitled "An act laying duties on carriages for the conveyance of persons, and repealing the former act for that purpose," was read the third time.

4TH CON.—4

On motion, to strike out, from section 1st, line 26th, these words; "And upon every other two wheel carriage;" it passed in the negative.

On motion, to insert in section 1st, line 28th, after the words, "two dollars," the following words: "for and upon every other two wheel carriage, the yearly sum of one dollar and a half;" it passed in the negative.

On motion, it was agreed to amend the first section, line 14th, by inserting, after the words "top carriage," the following words: "and upon every two wheel carriage hanging or resting upon steel or iron springs;" and, also, to insert in the same section, line 15th, after the word "carriage," in the first place, the following words, "the yearly sum of two dollars."

Resolved, That this bill pass with the amendments.

Mr. TATNALL, from the committee to whom was referred the bill, entitled "An act for the relief of Moses Myers," reported that the bill pass without amendment.

Ordered, That the consideration of the report be postponed.

Mr. GUNN, from the committee to whom was re-committed the amendments to the bill, entitled "An act to ascertain and fix the Military Establishment of the United States," reported further amendments, which were adopted, and the bill was amended accordingly.

Ordered, That this bill pass to the third reading as amended; and that the amendments be printed for the use of the Senate.

A message from the House of Representatives informed the Senate that the House had passed the bill, sent from the Senate for concurrence, entitled "An act for the relief of persons imprisoned for debt," with amendments; in which they desire the concurrence of the Senate. Also, that the House had passed a bill, entitled "An act making further provision for the expenses attending the intercourse of the United States with foreign nations, and to continue in force the act, entitled 'An act providing the means of intercourse between the United States and foreign nations;'" also, a bill, entitled "An act directing certain experiments to be made to ascertain uniform standards of Weights and Measures for the United States," in which bills they desire the concurrence of the Senate.

The bills last brought from the House of Representatives for concurrence were read, and ordered to a second reading.

FRIDAY, May 20.

The bill, sent from the House of Representatives for concurrence, entitled "An act altering the compensation of the Accountant of the War Department," was read the third time, and passed.

Mr. GUNN, from the committee to whom was referred the bill, entitled "An act making an additional allowance to certain public officers for the year one thousand seven hundred and ninety-six," reported, that the further consideration there-

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of be postponed until the next session of Congress.

Ordered, That the consideration of the report be postponed until to-morrow.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act for the relief of Moses Myers," and the report was not adopted.

On motion to agree to the bill, as follows :

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Collector of the Customs for the port of Norfolk and Portsmouth be, and he is hereby, authorized to have ascertained the rate of damage sustained by Moses Myers, on the goods contained in the twenty-three bales, cases, and trunks, of merchandise, unladen from on board the French ship-of-war, the *Jean Bart*, and which were damaged by the oversetting of the schooner *Quantico*; and remit to the said Moses Myers the duties, in proportion to the damage sustained on the goods damaged as aforesaid."

It passed in the negative—yeas 10, nays 11, as follows :

YEAS.—Messrs. Bloodworth, Brown, Butler, Foster, Henry, Langdon, Martin, Strong, Tattnall, and Tazewell.

NAYS.—Messrs. Bradford, Burr, Gunn, King, Latimer, Livermore, Potts, Read, Ross, Rutherford, and Trumbull.

On the question that the bill pass to the third reading, it passed in the negative.

So it was *Resolved*, That the Senate do not concur in this bill.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act for the relief of persons imprisoned for debt," and on motion, it was agreed to concur in the first of the proposed amendments.

On the question to agree to the following amendment, to wit: strike out the second and third sections, and insert the following :

"And be it further enacted, That persons imprisoned for debt, under process from the Courts of the United States, shall have the same benefit of the laws of their respective States, for the relief of persons imprisoned for debt, and the same right of discharge from confinement, which they would have if imprisoned under process of their respective States : And that the Judges of the District Courts in the States, respectively, shall be, and are hereby, authorized to commission such persons as they may think proper, and give them the powers necessary for executing the provisions of the said laws of their respective States : *Provided*, That nothing herein contained shall prevent the suing out process against the estate of a debtor, at any time after his discharge ; any thing in the laws of the respective States to the contrary notwithstanding."

It passed in the negative—yeas 7, nays 14, as follows :

YEAS.—Messrs. Bloodworth, Brown, Burr, Marshall, Martin, Robinson, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Foster, Gunn, Henry, Latimer, Livermore, Potts, Read, Ross, Rutherford, Strong, Tattnall, and Trumbull.

Resolved, That the Senate agree to the first, and disagree to all the other amendments to the said bill.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act concerning the post road from Portland, in Maine, to Savannah, in Georgia ;" in which they desire the concurrence of the Senate. They disagree to the first, and agree to the other amendment of the Senate to the bill, entitled "An act altering the compensation of the Accountant of the War Department."

The bill last brought from the House of Representatives for concurrence was read twice, and referred to Messrs. POTTS, GUNN, and STRONG, to consider and report thereon to the Senate.

The Senate proceeded to consider the resolution of the House of Representatives, disagreeing to their first amendment to the bill, entitled "An act altering the compensation of the Accountant of the War Department ;" and,

Resolved, That they do recede from their said first amendment.

The bill respecting the Mint was read the second and third times, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act to ascertain and fix the Military Establishment of the United States," was read the third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act directing certain experiments to be made to ascertain uniform standards of Weights and Measures for the United States," was read the second time, and referred to Messrs. RUTHERFURD, TAZEWEILL, and MARTIN, to consider and report thereon to the Senate.

The bill, laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof, was read the second time.

Ordered, That the consideration of this bill be the order of the day for to-morrow.

Mr. BURR, from the committee to whom was referred the Report of the Attorney General, of the 28th of April last, respecting the lands situated in the Southwestern parts of the United States, together with the papers therein referred to, reported, as follows :

"Whereas, from documents laid before Congress, pursuant to a resolution of the third day of March, one thousand seven hundred and ninety-five, questions appear to arise as to a claim of the United States, as well of property as jurisdiction, of certain lands within the bounds following, to wit: north by the cession of South Carolina, west by the Mississippi, south by the thirty-first degree of latitude, and east by the river Chatahouchee and a line from the head thereof due north to the South Carolina cession ; the jurisdiction of which territory is also claimed by the State of Georgia, and the property thereof, or of certain parts thereof, as well by the State of Georgia, as by certain individuals claiming under the said State ; and whereas it is highly expedient that the rights of the parties, as well to property as to jurisdiction, should be ascertained and declared,

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and that the minds of those claiming or holding should be quieted, and that provision should be made for the temporary Government of the inhabitants of the territory aforesaid; it is therefore

Resolved, That the President of the United States be authorized to treat and conclude (subject to the ratification or dissent of Congress) with the State of Georgia, for the cession of the claim of said State to jurisdiction in and over the said territory, and to adopt such measures as to him shall seem expedient (subject to the future approbation of Congress) for ascertaining, declaring, confirming, by an agreement to be entered into between the parties aforesaid, their respective claims to the territory aforesaid.

"Secondly. That, as soon as the ratifications of the Treaty lately concluded with His Catholic Majesty shall be exchanged, the President of the United States be authorized to establish a temporary Government in and over the inhabitants of all that tract of country lying within the territory aforesaid, and bounded as follows, to wit: west by the Mississippi, north by a line to be drawn due east from the mouth of the Yazoo to the Chatahouchee, east by the Chatahouchee, and south by the thirty-first degree of latitude, conformably with the ordinance of Congress of the thirteenth day of July, one thousand seven hundred and eighty-seven; such temporary Government to continue until the end of the next session of Congress, without prejudice to the right of any State or individual whatsoever."

Ordered, That the report be printed for the use of the Senate.

SATURDAY, May 21.

The bill, sent from the House of Representatives for concurrence, entitled "An act making further provision for the expenses attending the intercourse of the United States with foreign nations; and to continue in force the act, entitled 'An act providing the means of intercourse between the United States and foreign nations,'" was read the second time, and referred to Messrs. BINGHAM, TAZEWELL, and STRONG, to consider and report thereon to the Senate.

On motion, to take into consideration the resolution of the House of Representatives, to adjourn on the 25th instant; it was agreed that it should be postponed.

The Senate resumed the second reading of the bill, laying out into one State the Territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof.

A letter, signed William Cocke, purporting that he is appointed a Senator for the State of Tennessee, and claiming a seat in the Senate, was presented and read.

Ordered, That it lie on the table.

MONDAY, May 23.

Mr. BRADFORD, from the committee to whom was referred the bill, entitled "An act altering the sessions of the Circuit Courts in the Districts of Vermont and Rhode Island, and for other purposes," reported amendments, which were read.

Mr. BURR, from the managers at the conference on the part of the Senate, on the disagreeing

votes of the two Houses, on the bill, entitled "An act for the relief and protection of American seamen," reported certain modifications to the bill, as agreed to by the joint committee of conference.

A message from the House of Representatives informed the Senate that the House have passed the bill sent from the Senate for concurrence, entitled "An act to regulate the compensation of clerks;" with an amendment, in which they desire the concurrence of the Senate. They agree to the amendments of the Senate to the bill, entitled "An act laying duties on carriages for the conveyance of persons, and repealing the former act for that purpose;" with an amendment to the seventh amendment, in which they desire the concurrence of the Senate. They agree to the report of the joint committee of conference, respecting the amendments proposed by the Senate to the bill, entitled "An act for the relief and protection of American seamen." They insist on their amendments, disagreed to by the Senate, to the bill, entitled "An act for the relief of persons imprisoned for debt;" ask a conference thereon, and have appointed managers at the same on their part. They agree to some, and disagree to other, amendments of the Senate to the bill, entitled "An act to ascertain and fix the Military Establishment of the United States." They have passed a bill, entitled "An act to suspend, in part, the act, entitled 'An act to alter and amend the act, entitled 'An act laying certain duties on snuff and refined sugar;'" and a bill entitled "An act limiting the time for the allowance of drawback on the exportation of domestic distilled spirits, and allowing a drawback upon such spirits exported in vessels of less than thirty tons, by the Mississippi;" in which bills they desire the concurrence of the Senate.

The Senate took into consideration the resolution of the House of Representatives adopting the report of the joint committee of conference, on the bill, entitled "An act for the relief and protection of American seamen;" and,

Resolved, That the consideration thereof be postponed until to-morrow.

The Senate took into consideration the resolution of the House of Representatives, insisting on their amendments, disagreed to by the Senate, to the bill, entitled "An act for the relief of persons imprisoned for debt;" and asking a conference thereon.

Resolved, That they do agree to the proposed conference, and that Messrs. STRONG, and POTTS be managers at the same on the part of the Senate.

The bills last brought from the House of Representatives for concurrence were severally read, and ordered to a second reading.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act to regulate the compensation of clerks;" and,

Resolved, That they do disagree thereto.

The Senate proceeded to consider the amendment of the House of Representatives to their

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seventh amendment to the bill, entitled "An act laying duties on carriages for the conveyance of persons, and repealing the former act for that purpose;" and,

Resolved, That the Senate concur in the said amendment.

The Senate proceeded to consider the amendments disagreed to by the House of Representatives to the bill, entitled "An act to ascertain and fix the Military Establishment of the United States;" and,

Resolved, That the Senate insist on their amendments disagreed to.

The Senate proceeded to consider the report of the committee to whom was referred the bill, entitled "An act making an additional allowance to certain public officers for the year one thousand seven hundred and ninety-six;" which was adopted, and the bill was accordingly postponed to the next session of Congress.

A message from the House of Representatives informed the Senate that the House insist on their amendment to the bill, entitled "An act to regulate the compensation of clerks." They insist on their disagreement to the amendments of the Senate to the bill, entitled, "An act to ascertain and fix the Military Establishment of the United States," ask a conference thereon, and have appointed managers at the same on their part. They agree to the first, and disagree to all the other amendments of the Senate to the bill, entitled "An act in addition to an act, entitled 'An act supplementary to the act, entitled 'An act to provide more effectually for the collection of the duties on goods, wares, and merchandise imported into the United States, and on the tonnage of ships or vessels.'" They have passed the bill, sent from the Senate for concurrence, entitled "An act respecting the Mint," with an amendment; in which they desire the concurrence of the Senate.

The Senate resumed the consideration, in paragraphs, of the bill laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof.

A letter, signed William Blount and William Cocke, was read, stating that they have been duly and legally elected Senators to represent the State of Tennessee in the Senate.

On motion,

"That Mr. Blount and Mr. Cocke, who claim to be Senators of the United States, be received as spectators, and that chairs be provided for that purpose until the final decision of the Senate shall be given on the bill proposing to admit the Southwestern Territory into the Union;"

A motion was made to refer the consideration thereof to a committee; and it passed in the negative.

On motion to agree to the original motion, it passed in the affirmative—yeas 12, nays 11, as follows:

YEAS.—Messrs. Bloodworth, Brown, Burr, Butler, Foster, Henry, Langdon, Martin, Potts, Robinson, Tattall, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Gunn, Latimer, Livermore, Marshall, Read, Ross, Rutherford, Strong, and Trumbull.

After debate, the further consideration of the bill last mentioned was postponed until to-morrow.

A letter from Rufus King was read, stating that he had accepted the appointment of Minister Plenipotentiary at the Court of London, and resigning his seat in the Senate.

Mr. Potts, from the committee to whom was referred the bill, entitled "An act concerning the post road from Portland, in Maine, to Savannah, in Georgia," reported that the bill pass without amendment.

TUESDAY, May 24.

The Senate considered the report of the committee to whom was referred the bill, entitled "An act concerning the post road from Portland, in Maine, to Savannah, in Georgia;" and the report was not agreed to.

On motion that this bill pass to the third reading, it was determined in the negative. So the bill was rejected.

The bill sent from the House of Representatives, entitled "An act to suspend, in part, the act, entitled 'An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar,'" was read a second time, and referred to Messrs. BINGHAM, STRONG, and HENRY, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act limiting the time for the allowance of drawback on the exportation of domestic distilled spirits, and allowing a drawback upon such spirits, exported in vessels of less than thirty tons, by the Mississippi," was read the second time, and referred to the committee last mentioned, to consider and report thereon to the Senate.

Mr. STRONG reported, from the managers at the conference on the bill, entitled "An act for the relief of persons imprisoned for debt," that they had agreed to sundry amendments.

Mr. RUTHERFORD, from the committee to whom was referred the bill, sent from the House of Representatives for concurrence, entitled "An act relative to quarantine," reported, that the bill be amended, by inserting after the word "that," "until general regulations relative to quarantine arc made by law." And, on the question to agree to the report, it was determined in the negative.

Ordered, That the bill pass to the third reading. The Senate proceeded to consider the report of the managers at the conference on the disagreeing votes of the two Houses, on the bill, entitled "An act for the relief and protection of American seamen."

On motion, to postpone the further consideration of this bill to the next session of Congress, it passed in the negative.

On motion, to modify the report of the conference, so as that the surveyor, instead of the collect-

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or, be the certifying officer, it was ruled not to be in order. Whereupon,

Resolved, That the Senate agree to the report of the joint committee of conference on the said bill, and that the bill be amended accordingly.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act respecting the Mint."

Resolved, That they do concur therein.

The Senate proceeded to consider the resolution of the House of Representatives, insisting on their amendment to the bill, entitled "An act to regulate the compensation of clerks;" and,

Resolved, That they insist on their disagreement to the said amendment.

The Senate considered the resolution of the House of Representatives disagreeing to sundry amendments of the Senate to the bill, entitled "An act in addition to an act, entitled 'An act supplementary to the act, entitled 'An act to provide more effectually for the collection of the duties on goods, wares, and merchandise imported into the United States, and on the tonnage of ships and vessels;'" and,

Resolved, That they do recede from their said amendments.

The Senate considered the resolution of the House of Representatives, insisting on their disagreement to the amendments to the bill, entitled "An act to ascertain and fix the Military Establishment of the United States," and asking a conference thereon; and,

Resolved, That they do agree to the proposed conference, and that Messrs. GUNN and ROSS be managers at the same on the part of the Senate.

The Senate considered the report of the committee to whom was referred the bill, entitled "An act altering the sessions of the Circuit Courts in the Districts of Vermont and Rhode Island, and for other purposes," which was adopted; and the bill was amended accordingly.

Ordered, That this bill pass to the third reading.

The Senate resumed the consideration of the bill laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for the enumeration of the inhabitants thereof; and, after debate, the further consideration thereof was postponed until tomorrow.

WEDNESDAY, May 25.

The bill, sent from the House of Representatives for concurrence, entitled "An act relative to quarantine," was read the third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act altering the sessions of the Circuit Courts in the Districts of Vermont and Rhode Island, and for other purposes," was read the third time, and passed.

Mr. BINGHAM, from the committee to whom was referred the bill, entitled "An act making further provision for the expenses attending the intercourse of the United States with foreign nations, and to continue in force the act, entitled "An act providing the means of intercourse be-

tween the United States and foreign nations," reported that the bill pass without amendment; and the report being read, was adopted.

Ordered, That this bill pass to the third reading.

On motion, by Mr. BURR,

Ordered, That the PRESIDENT be requested to notify the Executive of the State of New York that RUFUS KING hath accepted the appointment of Minister Plenipotentiary from the United States to the Court of London, and that his seat in the Senate is vacated.

The Senate proceeded to consider the report of the joint committee of conference on the bill, entitled "An act for the relief of persons imprisoned for debt;" whereupon,

Resolved, That they concur in the amendments to the bill accordingly.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

of the House of Representatives:

The measures now in operation for taking possession of the posts of Detroit and Michilimackinac, render it proper that provision should be made for extending to these places, and any others alike circumstanced, the civil authority of the Northwestern Territory. To do this will require an expense, to defray which the ordinary salaries of the Governor and Secretary of that Territory appear to be incompetent.

The forming of a new county or new counties, and the appointment of the various officers, which the just exercise of Government must require, will oblige the Governor and Secretary to visit those places, and to spend considerable time in making the arrangements necessary for introducing and establishing the Government of the United States. Congress will consider what provision will in this case be proper.

G. WASHINGTON.

UNITED STATES, May, 1796.

The Message was read, and ordered to lie for consideration.

The Senate resumed the second reading of the bill laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for the enumeration of the inhabitants thereof.

On motion to strike out, from the word "inhabitants," section 1st, line 33d, to the end of the bill, and insert as follows:

"And whereas satisfactory evidence has been received that the said State did, on the 11th January, 1796, contain a greater number of free inhabitants than 60,000, and the people thereof did then proceed to form a permanent Constitution and State Government, which in all respects accord with the Articles of the Compact between the United States and the said inhabitants:

"Be it therefore further enacted, That the said State shall be, and the same is hereby, received into the Union as a free and independent State, under the name and title of 'The State of Tennessee,' on an equal footing with the original States, in all respects whatever.

"And be it further enacted, That, until the next general census, the said State of Tennessee shall be entitled to one Representative in the House of Representatives of the United States, and in all other respects, as far as they may be applicable, the laws of the United States shall extend to, and have force in, the State of

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Tennessee, in the same manner as if that State had originally been a member of the Union."

A motion was made and agreed to, that the question be divided, and be taken on striking out from the word "inhabitants," section 1st, line 83d.

And on the question for striking out, it passed in the negative—yeas 11, nays 12, as follows:

YEAS.—Messrs. Bloodworth, Brown, Burr, Butler, Henry, Langdon, Marshall, Martin, Robinson, Tattnall, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Foster, Gunn, Latimer, Livermore, Potts, Read, Ross, Rutherford, Strong, and Trumbull.

And, after agreeing to sundry amendments, the bill was ordered to a third reading.

The Senate proceeded to consider the resolution of the House of Representatives, of the 8th instant, proposing that the two Houses adjourn on this day; and

Resolved, That they do not agree thereto.

The Senate resumed the consideration of the report of the committee to whom was referred the bill, entitled "An act for compensating Jonathan Hastings, Deputy Postmaster at Boston, for extra services."

On the question to agree to the first enacting clause, it passed in the negative.

On the question to agree that the bill pass to the third reading, it passed in the negative. So the bill was rejected.

THURSDAY, May 26.

Mr. FOSTER reported from the committee to whom was referred the bill, entitled "An act for the relief of Sylvanus Bourne," that the bill pass without amendment; which report was adopted. The bill was then read a third time, and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act making further provision for the expenses attending the intercourse of the United States with foreign nations, and to continue in force the act, entitled 'An act providing the means of intercourse between the United States and foreign nations,'" was read the third time, and passed.

A message from the House of Representatives informed the Senate that they agree to some, disagree to some, and have amended other, amendments of the Senate to the bill, entitled "An act making provision for the payment of certain Debts of the United States." They have passed a bill, entitled "An act to indemnify the estate of the late Major General Nathaniel Greene, for a certain bond entered into by him during the late war;" in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to a second reading.

The Senate proceeded to consider the resolutions of the House of Representatives, disagreeing to some, and amending other, amendments of the Senate to the bill, entitled "An act making provision for the payment of certain Debts of the United States." Whereupon,

Resolved, That the Senate insist on their amend-

ment to the 11th line of the first section of the bill; that they insist on their amendment to the third section for striking out the proviso; that they disagree to the amendment of the House of Representatives to their amendment of the third section, as follows:

"And such of the revenues of the United States, heretofore appropriated for the payment of interest of debts thus discharged, shall be, and the same are hereby, pledged and appropriated towards the payment of the interest and instalments of the principal, which shall hereafter become due on the Loan obtained of the Bank of the United States, pursuant to the 11th section of the act for incorporating the subscribers to the said Bank."

The Senate insist, also, on their amendment to the 5th section of the bill, and ask a conference on the subjects of disagreement, and have appointed Messrs. BINGHAM and STRONG managers on the part of the Senate.

A message from the House of Representatives informed the Senate that the House desire a conference on the disagreeing votes of the two Houses on the bill, entitled "An act to regulate the compensation of clerks," and have appointed managers at the same on their part.

The Senate proceeded to consider the resolution of the House of Representatives, desiring a conference on the disagreeing votes of the two Houses on the bill, entitled "An act to regulate the compensation of clerks." Whereupon,

Resolved, That the Senate do agree to the proposed conference, and that Messrs. STRONG and ROSS be managers at the same on the part of the Senate.

A message from the House of Representatives informed the Senate that the House have passed the bill, sent from the Senate for concurrence, entitled "An act to continue in force, for a limited time, the acts therein mentioned," with amendments; in which they desire the concurrence of the Senate.

The Senate proceeded to consider the amendments of the House of Representatives to the bill mentioned in the above message; and,

Resolved, That they do concur therein.

Mr. GUNN reported from the joint committee of conference on the bill, entitled "An act to ascertain and fix the Military Establishment of the United States," certain modifications, as agreed to by the committee; which were read.

Ordered, That the report lie for consideration.

Mr. ROSS, from the committee to whom was referred the bill, entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren, for propagating the Gospel among the Heathen," reported amendments; which were read, and the consideration thereof postponed until to-morrow.

The bill laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof, was read the third time.

On motion, that the bill be amended, so that the State be called and known by the name of Tennessee, it passed in the negative.

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And, after agreeing to sundry amendments, on motion, that the following be an additional section to the bill:

"And be it further enacted, That if, on the returns by the Supervisor of the Revenue for the District of Tennessee, as directed by this act, it shall appear to the President of the United States that the territory by this act laid out, and formed into a State, doth contain sixty thousand free inhabitants, that then it shall be lawful for the President, by his Proclamation, to declare the same; and that, in that event, and on their forming a Constitution consistent with the ordinance of Congress of the thirteenth day of July, one thousand seven hundred and eighty-seven, the said State, by the name and style of 'The State of Tennessee,' shall be received and admitted into the Union as a new and entire member of the United States of America. And, until an enumeration shall be made, under the authority of Congress, for the purpose of apportioning Representatives, the said State of Tennessee shall be entitled to choose one Representative."

A motion was made to amend this motion, by striking out the following words:

"And on their forming a Constitution consistent with the ordinance of Congress of the thirteenth day of July, one thousand seven hundred and eighty-seven:"

It passed in the negative—yeas 11, nays 12, as follows:

YEAS.—Messrs. Bloodworth, Brown, Burr, Butler, Henry, Langdon, Livermore, Martin, Robinson, Tattall, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Foster, Gunn, Latimer, Marshall, Potts, Read, Ross, Rutherford, Strong, and Trumbull.

And, on the question to agree to the motion without amendment, it passed in the negative—yeas 10, nays 12, as follows:

YEAS.—Messrs. Burr, Foster, Gunn, Henry, Latimer, Livermore, Martin, Potts, Tattall, and Trumbull.

NAYS.—Messrs. Bingham, Bloodworth, Bradford, Brown, Langdon, Marshall, Read, Robinson, Ross, Rutherford, Strong, and Tazewell.

On the question, that the bill pass, it was determined in the affirmative—yeas 15, nays 8, as follows:

YEAS.—Messrs. Bingham, Bradford, Brown, Foster, Gunn, Latimer, Martin, Potts, Read, Ross, Rutherford, Strong, Tattall, Tazewell, and Trumbull.

NAYS.—Messrs. Bloodworth, Burr, Butler, Henry, Langdon, Livermore, Marshall, and Robinson.

So it was resolved, that this bill pass; that it be engrossed; and that the title thereof be "An act laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof."

FRIDAY, May 27.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to empower the Secretary of the Treasury to lease the Salt Springs reserved for the United States, in the Territory Northwest of the river Ohio;" and a bill, entitled "An act

making an appropriation to satisfy certain demands attending the late insurrection, and to increase the compensation to marshals, jurors, and witnesses, in the Courts of the United States, and to allow a further compensation to the Attorney for the District of Kentucky;" in which they desire the concurrence of the Senate. They agree to the report of the joint committee of conference on the amendment to the bill, entitled "An act to ascertain and fix the Military Establishment of the United States." They also agree to the proposed conference on the disagreeing votes of the two Houses on the bill, entitled "An act making provision for the payment of certain Debts of the United States;" and have appointed managers on their part.

Mr. STRONG, from the joint committee of conference on the amendment to the bill, entitled "An act to regulate the compensation of clerks," reported, that it will be proper for the House of Representatives to recede from their amendment; which was read, and ordered to lie for consideration.

The bill, sent from the House of Representatives for concurrence, entitled "An act to empower the Secretary of the Treasury to lease the Salt Springs reserved for the United States in the Territory Northwest of the river Ohio," was read the first and second times.

Ordered, That the bill last mentioned be referred to Messrs. ROSS, RUTHERFORD, and BURR, to consider and report thereon to the Senate.

On motion, that it be

Resolved, That the PRESIDENT of the Senate and SPEAKER of the House of Representatives be authorized to close the present session, by adjourning their respective Houses on Wednesday the first of June next,

It was agreed that the consideration thereof be postponed until to-morrow.

Mr. BINGHAM, from the committee to whom was referred the bill, entitled "An act to suspend, in part, the act, entitled 'An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar;'" reported amendments, which were read. And, on the question to adopt them, it passed in the negative.

Ordered, That this bill pass to a third reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act making an appropriation to satisfy certain demands attending the late insurrection, and to increase the compensation of marshals, jurors, and witnesses, in the Courts of the United States, and to allow a further compensation to the Attorney for the District of Kentucky," was read the first time, and ordered to a second reading.

The bill, sent from the House of Representatives for concurrence, entitled "An act to indemnify the estate of the late Major General Nathaniel Greene, for a certain bond entered into by him during the late war," was read the second time, and referred to Messrs. TAZEWELL, STRONG, and HENRY, to consider and report thereon to the Senate.

The Senate proceeded to consider the report of

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the joint committee of conference, on the disagreeing votes of the two Houses on the bill, entitled "An act to ascertain and fix the Military Establishment of the United States;" which was adopted, and the bill amended accordingly.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act providing passports for the ships and vessels of the United States;" in which they desire the concurrence of the Senate.

The Senate proceeded to consider the report of the committee to whom was referred the bill, entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen;" which was in part adopted.

Ordered, That the remainder of the report be recommended.

The committee again reported, and it was agreed to postpone the consideration thereof until to-morrow.

A Letter from the Treasurer of the United States, with his account to 31st March last, was read, and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House recede from their amendment to the bill, entitled "An act to regulate the compensation of clerks."

The Senate took into consideration the report of the committee, appointed on the 29th of April last, to consider the report of the Attorney General, of the 28th of April, on the subject of the lands situated in the Southwestern parts of the United States; and, after debate, the consideration thereof was postponed.

The bill last sent from the House of Representatives for concurrence, entitled "An act providing passports for the ships and vessels of the United States," was read the first and second times, and referred to Messrs. BINGHAM, BRADFORD, and LANGDON, to consider and report thereon to the Senate.

SATURDAY, May 28.

The bill, sent from the House of Representatives for concurrence, entitled "An act making an appropriation to satisfy certain demands attending the late insurrection, and to increase the compensation to marshals, jurors, and witnesses, in the Courts of the United States, and to allow a further compensation to the Attorney for the District of Kentucky," was read the second time, and referred to Messrs. BROWN, BUTLER, and ROSS, to consider and report thereon to the Senate.

Mr. BINGHAM, from the joint committee of conference on the bill, entitled "An act making provision for the payment of certain Debts of the United States," made a report; which was adopted; and it was agreed to amend the bill accordingly.

The Senate proceeded to consider the report of the committee, to whom was referred the bill, entitled "An act regulating the grants of land appropriated for military services, and for the So-

ciety of the United Brethren for propagating the Gospel among the Heathen;" which report, being amended, was adopted; and the bill was amended accordingly.

Ordered, That this bill pass to a third reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for satisfying the claim of the executors of the late Frederick William de Steuben;" and a bill, entitled "An act for the relief of John Sears;" in which bills they desire the concurrence of the Senate.

The bill last mentioned was read twice, and referred to Messrs. BRADFORD, PORTS, and STRONG, to consider and report thereon to the Senate.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
of the House of Representatives:*

The extraordinary expenses, to be incurred in the present year in support of our foreign intercourse, I find will require a provision beyond the ordinary appropriation, and the additional twenty thousand dollars lately granted.

I have directed an estimate to be made, which is sent herewith, and will exhibit the deficiency, for which an appropriation appears to be necessary.

G. WASHINGTON.

UNITED STATES, May 28, 1796.

The Message and estimate were read, and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House agree to the report of the joint committee of conference on the bill, entitled "An act making provision for the payment of certain Debts of the United States." They have passed a bill, entitled "An act to authorize the PRESIDENT of the UNITED STATES to cause to be located one mile square of land at or near the mouth of the Great Miami river, reserved out of the grant to John Cleves Symmes, and for other purposes;" in which they desire the concurrence of the Senate.

The Senate resumed the consideration of the motion made yesterday in respect to an adjournment.

On motion to expunge "Wednesday," and insert "Tuesday," it passed in the negative. Whereupon,

Resolved, That the PRESIDENT of the Senate and SPEAKER of the House of Representatives be authorized to close the present session by adjourning their respective Houses on Wednesday, the first day of June next.

Ordered, That the Secretary desire the concurrence of the House of Representatives in this resolution.

The bill last brought from the House of Representatives for concurrence was read twice, and referred to Messrs. BURR, BROWN, and PORTS, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act for satisfying the claim of the executors of the late Frederick William de Steuben," was read twice, and

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referred to the committee last mentioned, to consider and report thereon to the Senate.

The bill, sent from the House of Representatives for concurrence, entitled "An act to suspend, in part, the act, entitled 'An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar,'" was read the third time.

On motion, it was agreed to amend the bill agreeably to the report of the committee made yesterday, and then rejected.

Resolved, That this bill pass as amended.

Mr. BINGHAM, from the committee to whom was referred the bill, entitled "An act providing passports for the ships and vessels of the United States," reported amendments; which were read and adopted; and the bill was read the third time and passed.

MONDAY, May 30.

The memorial of William Somarsall and son, and John Rice, merchants, of Charleston, South Carolina, was presented and read, stating certain spoliations to have been made on their property by a privateer from the Island of Bermuda, and praying the interposition of Congress.

Ordered, That the memorial and documents therein mentioned be referred to the Secretary of the Department of State.

The bill sent from the House of Representatives for concurrence, entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen," was read the third time and passed.

Mr. BROWN, from the committee to whom was referred the bill, entitled "An act making an appropriation to satisfy certain demands attending the late insurrection, and to increase the compensation to marshals, jurors, and witnesses, in the Courts of the United States, and to allow a further compensation to the Attorney for the District of Kentucky," reported that the bill pass without amendment.

On motion, sundry amendments to the bill were adopted; it was then read the third time and passed.

A message from the House of Representatives informed the Senate that the House have passed the bill, sent from the Senate for concurrence, entitled "An act laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof," with amendments; in which they desire the concurrence of the Senate. They agree to the resolution of the Senate to adjourn on Wednesday, the first day of June next. The House of Representatives disagree to the amendments of the Senate to the bill, entitled "An act to suspend, in part, the act, entitled 'An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar,'".

Mr. BINGHAM, from the committee to whom was referred the bill, entitled "An act limiting the time for the allowance of drawback on the export-

tation of domestic distilled spirits, and allowing a drawback upon such spirits exported in vessels of less than thirty tons, by the Mississippi," reported that the bill pass without amendment.

On motion, it was agreed to amend the bill, and, by unanimous consent, the bill was read the third time and passed.

The Senate proceeded to consider the resolution of the House of Representatives, disagreeing to their amendments to the bill, entitled "An act to suspend, in part, the act, entitled 'An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar,'" and,

Resolved, That the Senate insist on their amendments, and ask a conference thereon, and that Messrs. BINGHAM and STRONG be managers at the same on their part.

A message from the House of Representatives informed the Senate that the House agree to the proposed conference on the bill, entitled "An act to suspend, in part, the act, entitled 'An act to alter and amend the act, entitled 'An act laying certain duties upon snuff and refined sugar,'" and have appointed managers at the same on their part.

Mr. READ, from the committee to whom was referred the bill, entitled "An act to prevent the sale of prizes brought into the United States, by vessels belonging to any foreign Prince or State," reported that the bill do not pass.

On motion, it was agreed to amend the bill, and that it pass to the third reading as amended.

Mr. BURK, from the committee to whom was referred the bill, entitled "An act to authorize the PRESIDENT of the UNITED STATES to cause to be located one mile square of land, at or near the mouth of the Great Miami river, reserved out of the grant to John Cleves Symmes, and for other purposes;" and the bill entitled "An act for satisfying the claim of the executors of the late Frederick William de Steuben," reported that they do not pass.

On the question, that these bills severally pass to the third reading, it was determined in the negative. So the bills were lost.

Mr. BRADFORD, from the committee to whom was referred the bill, entitled "An act for the relief of John Sears," reported that the bill do not pass.

On the question, to agree to the third reading of this bill, it was determined in the negative.

So it was resolved that this bill do not pass.

A message from the House of Representatives informed the Senate that the House have passed a "resolution appointing a committee, jointly, with such as the Senate may appoint, to notify the PRESIDENT of the UNITED STATES of the proposed recess of Congress."

The Senate proceeded to consider the resolution last sent from the House of Representatives, in relation to the proposed recess.

Resolved, That the Senate concur therein, and that Messrs. HENRY and BUTLER be the committee on their part.

The Senate proceeded to consider the amendments of the House of Representatives to the bill

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entitled "An act laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof."

Resolved, That they disagree to the first, and agree to all the other amendments to the said bill.

Mr. BINGHAM, from the joint committee of conference on the bill, entitled "An act to suspend, in part, the act entitled 'An act to alter and amend the act entitled 'An act laying certain duties upon snuff and refined sugar,'" reported that the Senate recede from their amendments, and the report was adopted.

Mr. BROWN, from the committee to whom was referred the memorial of the Directors and Agents of the Ohio Company, reported—

"That so much of the said memorial as prays that regulations may be adopted by Congress, whereby the avails of certain lots reserved by contract for the sale of certain lands to said Company, for the support of schools, and for religious purposes; also, of two complete townships reserved for the endowment of an university, may be brought into speedy operation, and the benevolent intentions of the Government thereby more fully answered, is reasonable. But the committee are of opinion that it is expedient that the further consideration thereof be postponed to the next session of Congress, when some general regulations on this subject may be made.

"That in the opinion of the committee, so much of the said memorial as prays to be allowed to take from the lots reserved out of the grants to said Company, for the future disposition of Congress, twenty lots, of one mile square each, as an allowance for an equal number of lots appropriated by the said directors and agents, for the support of schools and religious purposes, and not provided for in said contract; also, so much thereof as solicits the right of pre-emption to the whole of the reserved lots within the tracts granted to the said Company, be rejected."

Ordered, That this report lie on the table.

Mr. ROSS, from the committee to whom was referred the bill, entitled "An act to empower the Secretary of the Treasury to lease the Salt Springs reserved for the United States in the Territory Northwest of the river Ohio," reported that the bill no not pass.

On the question, that this bill pass to the third reading, it was decided in the negative.

Mr. ROSS, from the committee to whom was referred the bill, entitled "An act providing relief to the owners of mills within the United States, for a limited time, in certain cases," reported amendments, which were adopted. And, by unanimous consent, the bill was read the third time, and passed.

On motion, it was agreed, by unanimous consent, that Mr. RUTHERFORD have permission to introduce a bill to amend "An act for the more general promulgation of the laws of the United States," and that it be now read the first and second times.

Ordered, That this bill pass to the third reading. And the House adjourned.

TUESDAY, May 31.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to alter the time of the next annual meeting of Congress," in which they desire the concurrence of the Senate. They insist on their amendment, disagreed to by the Senate, to the bill, entitled "An act laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for the enumeration of the inhabitants thereof;" ask a conference thereon, and have appointed managers at the same, on their part. They agree to all the amendments of the Senate to the bill, entitled "An act regulating the grants of land appropriated for military services, and for the Society of United Brethren, for propagating the Gospel among the Heathen;" except to the last, to which they disagree.

The bill sent from the House of Representatives for concurrence, entitled "An act to prevent the sale of prizes brought into the United States by vessels belonging to any foreign Prince or State," was read the third time.

On motion, to expunge the proviso agreed to yesterday, as an amendment, it passed in the negative.

So it was *Resolved*, that this bill pass with an amendment.

The Senate proceeded to consider their amendment disagreed to by the House of Representatives to the bill, entitled "An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren, for propagating the Gospel among the Heathen;" and

Resolved, That they do insist on their said amendment.

The Senate proceeded to consider the resolution of the House of Representatives, desiring a conference on the bill, entitled "An act laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof."

On motion, to postpone the further consideration thereof until the next session of Congress, it passed in the negative—yeas 10, nays 13, as follows:

YEAS.—Messrs. Bingham, Bradford, Foster, Latimer, Potts, Read, Ross, Rutherford, Strong, and Trumbull.

NAYS.—Messrs. Bloodworth, Brown, Burr, Butler, Gunn, Henry, Langdon, Livermore, Marshall, Martin, Robinson, Tattnell, and Tazewell.

Resolved, That the Senate agree to the proposed conference, and that Messrs. BURR and STRONG be managers at the same on their part.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the support of the Military and Naval Establishments for the year one thousand seven hundred and ninety-six;" in which they desire the concurrence of the Senate.

The bill sent from the House of Representatives for concurrence, entitled "An act to alter the

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time of the next annual meeting of Congress," was read and ordered to a second reading.

The bill to amend "An act for the more general promulgation of the Laws of the United States," was read the third time and passed.

The bill sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of the Military and Naval Establishments for the year one thousand seven hundred and ninety-six," was read twice and referred to Messrs. Potts, Brown, and Strong, to consider and report thereon to the Senate.

Mr. RUTHERFORD reported from the committee to whom was referred the bill, entitled "An act directing certain experiments to be made to ascertain uniform standards of Weights and Measures for the United States."

Ordered, That the report be printed for the use of the Senate, and that the consideration of this bill be referred to the next session of Congress.

Mr. BURR, from the joint committee of conference on the bill, entitled "An act laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the inhabitants thereof," reported, as the opinion of the majority of the joint committee, that the Senate recede from their disagreement to the amendment of the House of Representatives. Whereupon,

Resolved, That the Senate recede from their disagreement to the said amendment.

A motion was made by Mr. BURR, as follows :

"*Resolved*, That any enumeration of the inhabitants of any district under the temporary Government of the United States, for the purpose of, furnishing evidence to Congress that such district contains the number which may entitle it to admission into the Union, shall have been taken and made, under a law to be made by the Legislature of the said district, of the free inhabitants only, and, in all other respects, pursuant to the provisions contained in the act, entitled 'An act providing for the enumeration of the inhabitants of the United States.'"

Which motion was read, and ordered to lie until to-morrow for consideration.

Mr. TAZEWELL reported from the committee to whom was referred the bill, entitled "An act to indemnify the estate of the late Major General Nathaniel Greene, for a certain bond entered into by him during the late war;" which report was read, as follows :

"The committee to whom the bill to indemnify the estate of the late Major General Greene, for a certain bond entered into by him during the late war, was committed, submit the following report to the Senate :

"It appears to the committee that, some time in the fall of the year 1782, the Department of War authorized General Greene to contract for the clothing of the army then under his command. That, sometime in November or December, of the same year, he did contract with John Banks, a member of the house of Hunter, Banks, and Co., who acted for that house, to furnish the necessary supplies of clothing for the army. That John Banks, after entering into the contract, procured upon credit, of certain British merchants then in Charleston, the necessary articles of clothing. That General Greene, at the time he made this contract, paid down to the said Banks

the sum of eleven hundred guineas, and drew bills in his favor on the Superintendent of Finance, for the residue of the money necessary to complete the contract. That, about the same time, General Greene received authority to contract for the necessary supplies of provision for the army, which he found considerable difficulty in accomplishing. That, after exhausting the time which admitted of delay in making this latter contract, he entered into an agreement with the same John Banks, as a member of the house of Hunter, Banks, and Co., for the provision supplies of the army, sometime in the month of February, 1783. That, about this time, the creditors of Banks, as he had disappointed and deceived them in his promised payments, became pressing in their demands, and threatened, upon his refusal either to pay them or secure their debts, the use of means that might have disabled him from fulfilling his provision contract. That General Greene, in order to prevent the inconvenience which the loss of the provision contract would occasion to the army, and to leave Banks at liberty to pursue it, by satisfying his creditors, on the 8th of April, 1783, agreed to become his security, and, accordingly executed bonds with the said Banks to his creditors, for the amount of their debts; one of which bonds is the debt that gave rise to the present bill. That, in order to indemnify himself, he compelled Banks, at the same time, to give orders on Charles Pettit, his (Banks's) agent in Philadelphia, for the full amount of the debts for which he had become bound, to be paid out of the public money that would become due to Banks in virtue of his contracts. That these orders would have been productive enough to satisfy all the debts, if Banks had not continued to divert the funds to other purposes. That, after the death of General Greene and of Banks, Harris and Blackford instituted a suit against the executors of General Greene, and have obtained a judgment for the sum stated in the bill. No satisfactory evidence has been offered to the committee to prove that Hunter, Banks, and Co., are insolvent; but, on the other hand, there is reason to believe that some, at least, of that company are fully able to pay the debt due to Harris and Blackford, from the public notification of one of the company, in the newspapers of Virginia, requiring the creditors of Hunter, Banks, and Co., to come in and settle their claims and receive payment. Nor does it appear that the executors of General Greene have ever attempted, at law, to recover the debt in question of Hunter, Banks, and Co. Some of the papers submitted to the committee intimate that General Greene was a member of the house of Hunter, Banks, and Co., in this transaction; and it appears that General Greene gave no notice of his suretyship to the Government until several years after, nor until he was called upon to pay the bond: but the committee have not discovered any satisfactory evidence that General Greene was a partner with Hunter, Banks, and Co. If Hunter, Banks, and Co., were actually insolvent, and if General Greene was not a partner in the house of Hunter, Banks, and Co., in this transaction, the committee would not hesitate in believing that the United States ought to indemnify General Greene's estate against the effects of this suretyship; since they do not discover any other motive which could have governed him, in becoming security for Banks, but that of essentially promoting the public service.

"The committee further observe, that they have not had time fully to investigate all the facts in this case; and being desirous that justice should be finally done, they submit to the Senate the propriety of referring the consideration of this subject to the second Monday of next session of Congress."

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And, after debate, the consideration of the bill was postponed until to-morrow.

A message from the House of Representatives informed the Senate, that the House have passed a bill, entitled "An act making further appropriations for the year one thousand seven hundred and ninety-six;" in which they desire the concurrence of the Senate.

The bill was read twice, and referred to the committee appointed this day on the bill, sent from the House of Representatives for concurrence, entitled "An act making appropriations for the support of the Military and Naval Establishments for the year one thousand seven hundred and ninety-six."

WEDNESDAY, June 1.

Mr. POTTS, from the committee to whom was referred the bill, entitled "An act making appropriations for the support of the Military and Naval Establishments for the year one thousand seven hundred and ninety-six," reported amendments; which were read and adopted. The bill was then read the third time and passed.

Mr. POTTS, from the committee to whom was referred the bill, entitled "An act making further appropriations for the year one thousand seven hundred and ninety-six," reported that the bill pass. And, by unanimous consent, the bill was read the third time and passed.

The bill, sent from the House of Representatives for concurrence, entitled "An act to alter the time of the next annual meeting of Congress," was read and referred to Messrs. POTTS, GUNN, and BUTLER, to consider and report thereon to the Senate.

Mr. POTTS reported, from the committee, that the bill do not pass, and the report was adopted.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to authorize the PRESIDENT OF THE UNITED STATES, to lay, regulate, and revoke embargoes, during the ensuing recess of Congress;" in which they desire the concurrence of the Senate.

The consideration of the motion, made yesterday, for regulating the enumeration of the inhabitants of any district, under the temporary Government of the United States, was resumed. On motion,

Ordered, That it be postponed.

The bill, sent from the House of Representatives for concurrence, entitled "An act to authorize the PRESIDENT OF THE UNITED STATES to lay, regulate, and revoke embargoes, during the ensuing recess of Congress," was read twice, and referred to Messrs. BINGHAM, BUTLER, and POTTS, to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill, sent from the House of Representatives for concurrence, entitled "An act to indemnify the estate of the late Major General Nathaniel Greene for a certain bond entered into by him during the late war;" and, it being amended, it was agreed by unanimous consent, to dispense with the rule, and that this bill be now read the third time.

On motion, to add the following proviso to the bill:

"*Provided also*, That if, at any time hereafter, it shall appear that the said General Greene was interested in this transaction, as a member of the house of Hunter, Banks, and Company, either directly or indirectly, the estate of the said General Greene shall be liable to reimburse the United States the money, with interest, hereby directed to be advanced to his executors."

It passed in the negative.

On motion, it was agreed to amend the bill, by adding these words, after the word "bond," "not exceeding the aforesaid sum of eleven thousand two hundred and ninety-seven pounds eight shillings and eight pence, with interest from the 31st of December last."

Resolved, That this bill pass with amendments.

Ordered, That the Message of the PRESIDENT OF THE UNITED STATES of the 25th of May last, be referred to Messrs. ROSS, RUTHERFORD, and BROWN, to consider and report thereon to the Senate.

Mr. BINGHAM, from the committee to whom was referred the bill, entitled "An act to authorize the PRESIDENT OF THE UNITED STATES to lay, regulate, and revoke embargoes, during the ensuing recess of Congress," reported, that the bill pass without amendment. And it was agreed, by unanimous consent to dispense with the rule, and that it be now read the second time.

On motion, to agree, by unanimous consent, to dispense with the rule, and that this bill be now read the third time, it passed in the negative—yeas 14, nays 5. The consent not being unanimous. The yeas and nays being required by one-fifth of the Senators present, those who voted in the affirmative, are:

Messrs. Bingham, Bloodworth, Bradford, Foster, Latimer, Livermore, Marshall, Martin, Potts, Read, Ross, Rutherford, Strong, and Trumbull.

Those who voted in the negative are—

Messrs. Brown, Burr, Butler, Langdon, and Tazewell.

Wednesday Evening—5 o'clock.

On motion, that it be

"*Resolved*, That the sum of one hundred dollars each be allowed to the principal and engrossing clerks in the office of the Secretary of the Senate, to be paid by the Secretary out of the money appropriated for the contingent expenses of the Senate."

The motion was objected to, as not in order, and so determined by the PRESIDENT; and, on an appeal to the Senate, the determination was overruled. Whereupon, the question being taken on the original motion, it passed in the negative.

On motion, by Mr. MARTIN, that it be

"*Resolved*, That the honorable William Blount, and William Cocke, Esquires, who have produced credentials of being duly elected Senators for the State of Tennessee, be admitted to take the oath necessary for their qualification, and their seats accordingly."

JUNE, 1796.]

Proceedings.

[SENATE.]

Ordered, That a paper, purporting to be the credentials of Mr. Blount and Mr. Cocke, be read.

And, on the question to agree to the resolution, it passed in the negative—yeas 10, nays 11, as follows:

YEAS.—Messrs. Bloodworth, Brown, Burr, Butler, Gunn, Langdon, Martin, Robinson, Tattnall, and Tazewell.

NAYS.—Messrs. Bingham, Bradford, Foster, Latimer, Livermore, Marshall, Potts, Read, Ross, Rutherford, and Trumbull.

A message from the House of Representatives informed the Senate, that the House, having fin-

ished the business before them, are about to adjourn to the first Monday in December next.

Mr. BUTLER, from the joint committee appointed to wait on the PRESIDENT OF THE UNITED STATES, and notify him that, unless he had any further communications to make to them, they were ready to adjourn, reported, that the PRESIDENT OF THE UNITED STATES had no further communication to make, except the nomination of certain persons to execute the laws passed the present session.

After the consideration of the Executive business, the PRESIDENT adjourned the Senate to the first Monday in December next.

PROCEEDINGS AND DEBATES

OF THE

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE FIRST SESSION OF THE FOURTH CONGRESS, BEGUN AND HELD AT THE CITY OF PHILADELPHIA, DECEMBER 7, 1795.

MONDAY, December 7, 1795.

The following members appeared and took their seats:

From New Hampshire.—ABIEL FOSTER, NICHOLAS GILMAN, JOHN S. SHERBURN, and JEREMIAH SMITH.

From Massachusetts.—THEOPHILUS BRADBURY, HENRY DEARBORN, DWIGHT FOSTER, NATHANIEL FREEMAN, JR., BENJAMIN GOODHUE, GEORGE LEONARD, SAMUEL LYMAN, WILLIAM LYMAN, JOHN REED, THEODORE SEDGWICK, GEORGE THATCHER, JOSEPH E. VARNUM, and PELEG WADSWORTH.

From Rhode Island.—BENJAMIN BOURNE, and FRANCIS MALBONE.

From Connecticut.—JOSHUA COIT, CHAUNCEY GOODRICH, ROGER GRISWOLD, ZEPHANIAH SWIFT, and URIAH TRACY.

From Vermont.—ISRAEL SMITH.

From New York.—THEODORUS BAILEY, WILLIAM COOPER, EZEKIEL GILBERT, HENRY GLEN, JONATHAN N. HAVENS, EDWARD LIVINGSTON, JOHN E. VAN ALLEN, PHILIP VAN CORTLANDT, and JOHN WILLIAMS.

From New Jersey.—JONATHAN DAYTON, AARON KITCHELL, ISAAC SMITH, and MARK THOMPSON.

From Pennsylvania.—DAVID BAIRD, ALBERT GALLATIN, DANIEL HEISTER, JOHN WILKES KITTERA, SAMUEL MACLAY, FREDERICK AUGUSTUS MUHLBERG, SAMUEL SITGREAVES, JOHN SWANWICK, and RICHARD THOMAS.

From Delaware.—JOHN PATTON.

From Maryland.—GABRIEL CHRISTIE, GEORGE DENT, GABRIEL; DUVALL, WILLIAM HINDMAN, and WILLIAM VANS MURRAY.

From Virginia.—SAMUEL J. CABELL, JOHN CLOPTON, ISAAC COLES, WILLIAM B. GILES, GEORGE HANCOCK, CARTER B. HARRISON, JOHN HEATH, GEORGE JACKSON, JAMES MADISON, ANDREW MOORE, JOSIAH PARKER, ROBERT RUTHERFORD, and ABRAHAM VENABLE.

From North Carolina.—THOMAS BLGUNT, NATHAN BRYAN, DEMPSEY BURGESS, JESSE FRANKLIN, WILLIAM B. GROVE, JAMES HOLLAND, MATTHEW LOCKE, NATHANIEL MACON, and ABSALOM TATOM.

From South Carolina.—SAMUEL EARLE, ROBERT GOODLOE HARPER, and WILLIAM SMITH.

From Georgia.—ABRAHAM BALDWIN.

And a quorum, consisting of a majority of the whole number being present,

The House proceeded, by ballot, to the choice of a SPEAKER; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of JONATHAN DAYTON, one of the Representatives for the State of New Jersey: Whereupon:

The said JONATHAN DAYTON was conducted to the Chair, from whence he made his acknowledgments to the House as follows:

GENTLEMEN: It is with real diffidence that I undertake the execution of the duties which you have done me the honor to assign to me.

In discharging them to the best of my abilities, I anticipate, on your part, a liberal and indulgent temper towards those decisions which may be required from the Chair, and flatter myself that I shall experience, upon all occasions, your co-operation and support.

The House proceeded, in the same manner, to the appointment of a Clerk; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of JOHN BECKLEY.

The oath to support the Constitution of the United States, as prescribed by the act, entitled "An act to regulate the time and manner of administering certain oaths," was then administered by ISAAC SMITH, one of the Representatives from the State of New Jersey, to the SPEAKER, and then by Mr. SPEAKER to all the members present.

The same oath, together with the oath of office prescribed by the said recited act, were also administered by Mr. SPEAKER to the Clerk.

A message was received from the Senate, informing the House that a quorum of members of that body is assembled, and the VICE PRESIDENT being absent, they have proceeded to the choice of a PRESIDENT *pro tempore*, and that HENRY TAZEWELL has been duly elected.

Ordered, That a Message be sent to the Senate to inform that body that a quorum of this House is assembled, and have elected JONATHAN DAYTON their SPEAKER; and that the Clerk of this House do go with the message.

Another message from the Senate was received, informing this House that they have appointed a committee on their part, to act jointly with such committee as may be appointed by this House, to

H. OF R.]

Address to the President.

[DECEMBER, 1795.]

wait on the PRESIDENT OF THE UNITED STATES, to inform him that a quorum of the two Houses is assembled, and ready to receive any communication he may think proper to make to them.

Ordered, That Mr. MADISON, Mr. SEDGWICK, and Mr. SITGREAVES, be appointed a committee on the part of this House, for the purpose expressed in the message of the Senate.

Petitions from sundry persons, praying to be appointed to the offices of Sergeant-at-Arms and Doorkeeper, were presented to the House and read: Whereupon,

The House proceeded, by ballot, to the choice of a Sergeant-at-Arms, Doorkeeper, and Assistant Doorkeeper; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of JOSEPH WHEATON, as Sergeant-at-Arms, THOMAS CLAXTON, as Doorkeeper, and THOMAS DUNN, as Assistant Doorkeeper.

Ordered, That the said JOSEPH WHEATON, THOMAS CLAXTON, and THOMAS DUNN, do severally give their attendance accordingly.

Mr. MADISON, from the joint committee appointed to wait on the PRESIDENT OF THE UNITED STATES, and notify him that a quorum of the two Houses is assembled, and ready to receive any communication he may think proper to make to them, reported that the committee had, according to order, performed that service, and that the PRESIDENT signified to them that he would make a communication to both Houses of Congress to-morrow, at 12 o'clock, in the Representatives' Chamber.

Ordered, That a committee be appointed to prepare and report such Standing Rules and Orders of proceeding as are proper to be observed in the House; and that Mr. MÜHLENBERG, Mr. MURRAY, and Mr. BALDWIN, be the said committee.

Resolved, That the Rules and Orders of proceeding, established by the late House of Representatives, shall be deemed and taken to be the Rules and Orders of proceeding to be observed in this House, until a revision or alteration of the same shall take place.

Resolved, That a Standing Committee of Elections be appointed, whose duty it shall be to examine and report upon the certificates of election or other credentials of the members returned to serve in this House; and to take into their consideration all such matters as shall or may come in question touching returns and elections, and to report their proceedings, with their opinion thereupon, to the House.

And a committee was appointed, of Mr. VENABLE, Mr. DENT, Mr. KITTERA, Mr. SWIFT, Mr. DEARBORN, Mr. HANPER, and Mr. BLOUNT.

TUESDAY, December 8.

Several other members, to wit: from Maryland, SAMUEL SMITH; from Virginia, RICHARD BRENT; and from Georgia, JOHN MILLEDGE, appeared, produced their credentials, and took their seats in the House; the oath to support the Constitution of

the United States being first administered to them by Mr. SPEAKER, according to law.

Ordered, That a message be sent to the Senate to inform them that this House is now ready to attend them in receiving the communication from the PRESIDENT OF THE UNITED STATES, agreeably to his notification to both Houses yesterday; and that the Clerk of this House do go with the said message.

The Clerk accordingly went with the said message; and, being returned,

The Senate attended and took seats in the House; when, both Houses being assembled, the PRESIDENT OF THE UNITED STATES came into the Representatives' Chamber, and delivered his Speech to the two Houses. [For a copy of this Speech, see the Proceedings of the Senate, *ante* page 10.]

The PRESIDENT OF THE UNITED STATES then withdrew, and the two Houses separated.

Ordered, That the Speech of the PRESIDENT OF THE UNITED STATES to both Houses be committed to a Committee of the Whole House to-morrow.

A petition of Matthew Lyon, of the State of Vermont, was presented to the House and read, complaining of an undue election and return of ISRAEL SMITH, to serve as a member of this House for the said State.

Ordered, That the said petition be referred to the Committee on Elections; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

Ordered, That the Clerk of this House cause the members to be furnished, during the present session, with three newspapers, printed in this city, such as the members, respectively, shall choose, to be delivered at their lodgings: *Provided*, They do not exceed the price at which subscribers, citizens of Philadelphia, are furnished with them.

WEDNESDAY, December 9.

JAMES HILLHOUSE, from Connecticut, appeared, produced his credentials, was qualified, and took his seat.

ADDRESS TO THE PRESIDENT.

The House, according to the order of the day, resolved itself into a Committee of the Whole on the Speech of the PRESIDENT OF THE UNITED STATES to both Houses of Congress, Mr. MÜHLENBERG in the Chair; when, the Speech being read,

Mr. VANS MURRAY moved the following resolution:

"Resolved, That it is the opinion of this committee, that a respectful Address ought to be presented by the House of Representatives to the President of the United States, in answer to his Speech to both Houses of Congress, at the commencement of this session, containing assurances that this House will take into consideration the various and important matters recommended to their attention."

Mr. SEDGWICK seconded the motion.

DECEMBER, 1795.]

Committee of Claims.

[H. OF R

Mr. PARKER offered an amendment, which was seconded by Mr. MACON.

The substance of this amendment was, to strike out all that part of the resolution which goes before the word *assurances*; in place of which, Mr. PARKER proposed to appoint a committee, who should personally wait on the PRESIDENT, and assure him of the attention of the House, &c., and concluding as above. Mr. P. had the highest respect for the PRESIDENT, but he had always disapproved of this practice of making out Addresses in answer to these Speeches, and of the House leaving their business to go in a body to present them. Last session, the framing of this Address had cost very long debates, and produced very great irritation. Some of the most disagreeable things that happened during the session occurred in these debates. He wished unanimity and despatch of business, and so, could not consent that any Address should be drawn up, as he preferred ending the affair at once by sending a committee with a verbal answer.

Mr. MURRAY replied, that the practice of drawing up such an Address was coeval with the Constitution. It was consistent with good sense; and he did not see that any arguments had been employed by the gentleman who spoke last against it. It was true that the House might send a verbal answer, and it was likewise true that the PRESIDENT might have sent them his Speech by his Secretary, without coming near them at all. He had come to Congress, and Mr. M. could perceive no impropriety in Congress returning the compliment by waiting on him.

The Committee divided on the amendment proposed by Mr. PARKER. Eighteen members rose in support of it: so it was lost. The Committee then agreed to the resolution as offered by Mr. MURRAY. They rose, and the Chairman reported progress. The resolution was agreed to by the House. The next question was, of how many members the select committee should consist that were to be employed in framing a draft of the Address. The different numbers of five and three were proposed. A division took place on the former motion, when only thirty-one gentlemen rose in its favor. The motion for a committee of three members to report an Address was of course carried. Mr. MADISON, Mr. SEDGWICK, and Mr. SINGREAVES, were appointed.

It was then moved that two Chaplains should be named, as usual; which was agreed to.

A motion was next made for referring the PRESIDENT'S Speech to a Committee of the Whole House on the state of the Union. An explanation as to a point of order here took place between Mr. MUEHLBERG and Mr. SEDGWICK. The result was, that the Speech was referred to a Committee of the Whole House to-morrow.

On account of some casual conversation, the SPEAKER then read a rule of the House, which is:

"That the unfinished business in which the House was engaged at the time of the last adjournment shall have the preference in the orders of the day; and no motion on any other business shall be received, without

special leave of the House, until the former is disposed of."

A committee of three members was appointed to report the unfinished business of last session; and the House adjourned.

THURSDAY, December 10.

FRANCIS PRESTON, from Virginia, appeared, was qualified, and took his seat.

COMMITTEE OF CLAIMS.

It was proposed and agreed to appoint a Committee of Claims. Seven members were named. Mr. TRACY, Chairman of the same committee in last Congress, was also first named this day. He rose, and observed, that he had been extremely hard employed last year, and had undergone much trouble about this business of claims. He would therefore, if agreeable to the House, be very glad of being left out of the nomination; and for that reason he objected to the motion.

Mr. SEDGWICK wished the member to continue his services. These claims were now drawing to a conclusion. The task would not probably be so arduous as it had been. He thought that the House could not excuse Mr. TRACY, from his known abilities.

Mr. GILES said, that Mr. TRACY was, perhaps, better qualified than any other member in the House for expediting that business. He had been at much trouble about it, for which the House were obliged to him. It was something of a systematic nature, and new members would not be able to go on it with the same degree of information and experience.

The SPEAKER (Mr. DAYTON) remarked, that he had under the latter idea named the same gentlemen at this time as those who were in the last committee—only two members were not here, viz: Mr. MONTGOMERY and Mr. MEBANE, in the room of whom he had named Mr. HEISTER and Mr. MACON.

Mr. HEATH, a member both of the old and new Committees of Claims, observed that he would very willingly be excused, if the sense of the House were in that way. At the same time, he came to Congress to do his duty and the business of his constituents, and if the House entertained an opinion that he ought to undertake the same office a second time, he had nothing to urge against it.

The House divided on the question, whether Mr. TRACY should be a member of the Committee of Claims. It passed in the affirmative.

Mr. CHRISTIE, another member of the old and new committees, then rose, and observed that, notwithstanding the negative passed on the proposal of Mr. TRACY, he should trouble the House with an application of the same nature upon his own account. The state of his health required that he should ride every morning, and the time necessary for despatching the business of the Committee of Claims put it out of his power to take the requisite exercise. On that account alone he begged the indulgence of the House.

H. of R.]

Contested Election—President's Speech—Rules of the House.

[DECEMBER, 1795.]

Mr. TRACY attested that Mr. CHRISTIE had exerted himself very considerably to accelerate the business of the claims. He knew that the gentleman had suffered much in his health by that means. He should be very sorry to lose him as an assistant, for he had attended almost constantly last winter to the business. Sometimes want of health had indeed compelled him to be absent.

The House agreed to the request of Mr. CHRISTIE.

The Committee of Claims, therefore, consists of Mr. TRACY, Mr. MALBONE, Mr. D. FOSTER, Mr. HEATH, Mr. MACON, Mr. HEISTER, and Mr. DUVAL.

A message was received from the Senate, announcing the election of the Right Rev. Bishop WHITE as Chaplain on its part.

Mr. W. SMITH presented a petition for Edmund Hogan, requesting to be admitted as Stenographer to the House. Mr. SMITH also moved that a committee should be appointed to receive proposals on that subject. Mr. W. SMITH, Mr. GILES, and Mr. SWIFT, were appointed a committee to this effect.

CONTESTED ELECTION.

Mr. SITGREAVES presented a petition for John Richards, of the county of Montgomery, claiming a seat in the House. He had, as he alleged, been legally elected, but James Morris, who is since dead, had obtained the return as member. Mr. S. moved that the petition be referred to the Committee on Elections. The motion was agreed to.

Also a petition of Burwell Bassett, of the State of Virginia, complaining of an undue election and return of John Clopton, to serve as a member of this House, for the said State. Referred to the Committee of Elections.

After the reception of several petitions of a private nature, the House went into a Committee of the Whole on the state of the Union, Mr. MUELLENBERG in the Chair.

PRESIDENT'S SPEECH.

Mr. W. SMITH presented a set of resolutions, in substance as follows:

"Resolved, as the opinion of this Committee, that more effectual provision ought to be made for organizing, disciplining, and arming, the Militia of the United States.

"Resolved, as the opinion of this Committee, that further provision ought to be made for the security of the frontiers, and for protecting the Indians against certain lawless inhabitants of the frontier.

"Resolved, as the opinion of this Committee, that provision should be made for supplying the necessities of the Indians in times of peace.

"Resolved, as the opinion of this Committee, that inquiry ought to be made whether further means should be provided to reinforce the provisions heretofore made for the extinction of the Public Debt.

"Resolved, as the opinion of this Committee, that an inquiry ought to be made into the state of the Mint, and whether any further provisions are necessary in that department.

Mr. GILES thought it better to let these resolutions lie on the table for this day. He thought

some of the resolutions required evidence before the House proceeded on them.

Mr. W. SMITH said, that the resolution for organizing the militia did not require evidence.

Mr. SWANWICK moved an additional resolution, which was for inquiring into the present situation of the American Navy. It was a point on which he felt himself extremely interested.

Mr. BALDWIN made some remarks, wherein he alluded to the awkward outset of the House last session. They had been for three weeks before they could get at the papers laid on the table before them. He did not wish to see the House in the same situation, or to make such a beginning again.

Mr. GOODHUE saw no use for hastening the resolutions on the Committee just now.

The Committee rose. The CHAIRMAN reported that they had made some progress, but had come to no resolution.

Mr. SWANWICK then moved that the resolutions read in the Committee on the state of the Union should be printed. He said that it was difficult for members to form an opinion upon them, without they had an opportunity of reading them.

The SPEAKER observed, that as they were only read in the Committee, and not regularly before the House itself, to print them would be against order.

Mr. W. SMITH did not see the necessity for this rule.

Mr. MACON objected to taking up the resolutions at all. He supposed them to be bottomed on the PRESIDENT'S Speech, on which there is an order for a Committee of the Whole House. It would thence be improper to proceed with them till the Speech itself had been discussed.

Mr. HILLHOUSE was of opinion that there was no occasion for being in such a hurry with printing the resolutions.

The SPEAKER repeatedly observed that this whole conversation was irregular and improper, because there was in reality no question before the House. He informed them that there was now a motion to adjourn. This was made by Mr. SMITH. Mr. SEDGWICK wanted him to withdraw it. He refused; and the House, at half after twelve o'clock, adjourned.

FRIDAY, December 11.

Several other members, to wit: from Vermont, DANIEL BUCK; from New Jersey, THOMAS HENDERSON; from Pennsylvania, WILLIAM FINDLEY; and from Virginia, JOHN NICHOLAS—appeared, produced their credentials, were qualified, and took their seats.

RULES OF THE HOUSE.

After the reception and reference of several petitions—

Mr. MUELLENBERG made a report from the committee named to draw up Standing Rules and Orders for the House. He observed that they differed in some respects from those of last Congress. He moved that they should be printed, with the new variations separately marked, for the consi-

DECEMBER, 1795.]

Chaplain—The Mint—Address to the President.

[H. OF R.]

deration of members, and referred to a Committee of the Whole House. This was agreed to, and, on another motion, Monday was appointed for taking them up.

CHAPLAIN TO THE HOUSE.

It was next moved and resolved to proceed to the choice of a chaplain. The SPEAKER directed the House to prepare their ballots. Mr. HILLHOUSE said that it would first be proper to make, as on former occasions, a nomination. The House consented, and Mr. HILLHOUSE named Dr. Ashbel Green. The SPEAKER then reminded the House that any other gentleman was at liberty to make what other nomination he should think fit. Mr. GILES and Mr. W. SMITH were appointed tellers. Sixty-three were in favor of Dr. Green, besides seven scattering votes. He was declared duly elected.

After transacting some other ordinary business, the House adjourned to Monday next, at 11 o'clock.

MONDAY, December 14.

Two other members, to wit: from Pennsylvania, THOMAS HARTLEY, and from Virginia, ANTHONY NEW, appeared, produced their credentials, and took their seats.

Mr. GILMAN, from the committee appointed to examine the Journal of the last session, and to report therefrom such matters of business as were then depending and undetermined; and also to examine and report such laws of the United States as have expired, or will expire before the next session, made a report; which was read, and ordered to lie on the table.

Mr. VENABLE, from the Standing Committee of Elections, reported, that the committee had, in part, examined the certificates and other credentials of the members returned to serve in this House, and had agreed to a report; which was read, and ordered to lie on the table.

The SPEAKER laid before the House a Letter from the Secretary of the Treasury, accompanying an account of the receipts and expenditures of the United States, for the year one thousand seven hundred and ninety-four; which were read, and ordered to lie on the table.

The SPEAKER laid before the House a Letter from the Secretary of the Treasury, accompanied with estimates of the sums necessary to be appropriated for the service of the year one thousand seven hundred and ninety-six: also, statements of the application of certain sums of money granted by law; which were read, and ordered to lie on the table.

The SPEAKER laid before the House a Letter from the Secretary of War, accompanying sundry statements and reports relative to the present military force of the United States; to the measures which have been pursued to obtain proper sites for arsenals; to the measures which have been taken to replenish the magazines and military stores; to the measures which have been taken for opening a trade with the Indians; and to the progress made in providing materials for the frigates, and in building them; which were read, and ordered

to be committed to the Committee of the Whole House on the state of the Union.

THE MINT.

A letter, enclosing some papers, was received from Mr. TIMOTHY PICKERING, Secretary of State. This communication regarded the Mint. It was moved to be referred to the Committee on the state of the Union.

Mr. HILLHOUSE wished to know what it was about. The Clerk read the letter to the PRESIDENT, from Mr. WILLIAM HENRY DE SAUSSURE, late Director of the Mint, which stated it will, if properly supplied with bullion, be able to make a million and an half of dollars, in silver, and an equal value of bullion, in the course of a year, with as much copper as shall be necessary for circulation. The price of copper has risen, and from causes that are expected to be permanent. He therefore hinted that it might perhaps be proper to reduce the weight of the cent, to prevent its being melted down. The second paper read was a memorial from Mr. ELIAS BOUDINOT, present Director of the Mint, dated 3d of December current. He stated various circumstances, from which the operation of coinage is, at present, in a state of suspense. The papers were referred to the Committee on the state of the Union, and, on motion by Mr. BOURNE, were ordered to be printed.

ADDRESS TO THE PRESIDENT.

Mr. MADISON, from the select committee appointed to draft an Address in answer to the Speech of the PRESIDENT, made a report, which was read by the Clerk.

Mr. GILES moved that the usual number of copies of the Address should be printed for the use of the members.

Mr. SEDGWICK objected, but with some degree of hesitation, because he could not distinctly charge his memory as to the accuracy of the circumstance which he was going to relate. It ran in his memory, that, on some former occasion, similar to the present, a printer got hold of one of these Addresses, printed for the use of members. He had published it, and some improper consequences ensued, but of which Mr. SEDGWICK had not a distinct recollection. He was rather averse to printing the draft of the Address, though he was not disposed to give the proposal a direct negative.

Mr. GILES considered the printing of such drafts as having been a common practice.

Mr. PARKER said, that if the Address was to be considered as the work of the House, it would be improper to print it, because their only business then was to wait upon the PRESIDENT with it. But as it was only the production of a select committee, it should be printed, that the members might read it, before they adopted it as their own. With every proper feeling of respect for the gentlemen of that committee, he could not give up his own opinion. He hoped that the draft would be referred to a Committee of the Whole House, and when once corrected, and given in to the PRESIDENT, then let it be published as coming from the House. No member, from only hearing it

read by the Clerk, would be able to tell whether or not he approved entirely of its contents, so that it was requisite to print it, before the House could be sure that they understood it.

Mr. GILES wished to learn, from the Clerk of the House, what the practice of the House hitherto had been.

It appeared that the usual practice was to print, but that it was sometimes departed from.

Mr. W. SMITH said that it was wrong to divulge to the public the particular sentiments of the gentlemen who drew up the sketch of the Address. It was unfinished, and as such, if printed for the use of the members, it might be printed in the newspapers, a natural or probable effect.

Mr. SWANWICK recommended the printing.

Mr. PARKER, in reply to Mr. W. SMITH, hoped that nothing would ever be done in the House tending to infringe the freedom of the press. The public are entitled to know the sentiments of the Committee individually, as well as of the House collectively.

Mr. TRACY said that the draft of the Address had indeed been last year printed for the use of members. But it had been agreed, without one dissenting voice, that to print it in the newspapers would not be right. Nay, when he himself, had in the House expressed apprehensions on that head, a printer of one of the papers had taken him up in a reply, and assured him that the printers of Philadelphia had too much value for the time of their readers, to publish any paper which they knew to be incomplete, and on the point of being perfected. As to the liberty of the press, which the member last up had spoken about, it might be in greater danger now than last year, but he was not acquainted with its being so.

It was then unanimously agreed to print this paper for the use of the members; and, on motion, of Mr. PARKER, it was referred to a Committee of the Whole House. To-morrow was agreed upon for taking it up.

PRIVATE CLAIMS.

On a motion from Mr. TRACY, the House took up a report from the Committee of Claims, which was read, and which stated, that at the rising of last session, many petitions had never been examined, from their having been presented at so late a period, that time was wanting to go through with them. The report closed with recommending the adoption of a resolution, the substance of which was, that these unexamined claims be recommended to a new Committee of Claims. This recommendation was agreed to.

RULES OF THE HOUSE.

A motion was made that the House should go into Committee of the Whole, on the report from the Select Committee on the Standing Rules and Orders of the House. This was accordingly done, Mr. MUEHLBERG in the Chair.

The Chairman inquired if it was the pleasure of the Committee that this report should be read over again, as a printed copy was already in the hands of every gentleman. It was the sense of the House that the report should be read over again, which

was done, partly by the Chairman, and partly by the Clerk of the House.

The following clause was the first in any ways objected to:

"When the reading of a paper is called for, *which had before been read to the House*, and the same is objected to by any member, it shall be determined by a vote of the House."

The SPEAKER, (Mr. DAYTON,) did not understand thoroughly the intent of this clause.

A member explained that formerly the custom had been to read any paper as often as it was desired by a member. The consequence was found to be, that papers of more length than importance had been read over and over again, in the course of a session, to the great waste of time. The rule in question was one of those of last session.

The SPEAKER replied that papers had sometimes been read, which, as it appeared afterwards, had much better not have been read at all. He referred to a particular instance in the last session. He, therefore, highly approved the idea of the Committee, but objected that it did not go far enough. He, on this account, proposed to strike out the words in *italics*, by which means, if the paper was of an improper description, even a first reading would be prevented. The member, if he has any doubts, may communicate its contents to some other gentleman, previous to his laying it before the House, and, if it appears improper, the nature of its contents being thus indirectly conveyed, members can easily form their minds, without the trouble of reading it.

Mr. GILES approved the proposition of Mr. DAYTON, which was agreed to by the Committee. The words in *italics* were thus to be struck out.

Mr. W. SMITH moved to strike out the following clause:

"No committee shall sit, during the sitting of this House, without special leave."

Mr. SMITH had no objection to the rule, if the House seriously intended to adopt and enforce it; but if they did not, it was diminishing the respect due to the House. It was entirely improper to make rules, knowing that they would be broken. He moved to strike out the clause only that he might obtain the sense of the House whether they chose to adhere to the rule or not. We might as well have no rules as not observe them.

Mr. MUEHLBERG remarked that the Committee on Enrolled Bills, from the nature of their business, can only sit while the House itself is sitting.

Mr. KITCHELL said that if the House were to have no rules made, but such as were never broken, they would have no rules at all, for he believed that they never made a rule, which was not transgressed on some occasion or other. He was for keeping in the clause.

Mr. DAYTON was for leaving it in the power of the SPEAKER to send for committees into the House when they might be wanted. Excepting as to the case of Enrolled Bills, already noticed by the Chairman, others very seldom had occasion to sit, while the House was sitting. But when such a

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necessity happened, there was no doubt that the permission would be granted.

Mr. W. SMITH, Mr. MURRAY, and Mr. GILES, said a few words, and, in the end, Mr. SMITH withdrew his amendment.

Another rule was read, which directs clearing the House of all persons, except the members and the Clerk, when confidential communications are received from the PRESIDENT. Mr. W. SMITH inquired why the Sergeant-at-Arms was not, as formerly, to be admitted. Mr. MURRAY replied that the committee had not thought his presence essentially necessary. No motion was made on this subject.

The reading of the Rules was then finished. The Committee rose, and the Chairman reported that there had been one amendment adopted.

The House then took up the rules. One of them hath these words:

"A Sergeant-at-Arms shall execute the commands of the House, from time to time, *either by himself or a special messenger, to be by him appointed for that purpose.*"

Mr. HILLHOUSE objected to the words in *italics* as they now stand, because they give the Sergeant a discretionary power of going idle, and hiring another person to do his business. He proposed, as an amendment, to add these words, "*or in case of sickness.*"

Mr. VENABLE preferred, as an amendment, to strike out all the words in *italics*.

Mr. HILLHOUSE had once thought of that; but he recollected that the Sergeant might be sent to Georgia to arrest a member. After proceeding three fourths of the way, he falls sick; and not being able to proceed further himself, nor having time at such a distance to consult the House, the result will be that, unless he is qualified to appoint a delegate in his room, the orders of the House will not be executed.

Mr. VENABLE still thought it better to leave out the clause, than suffer a Sergeant-at-Arms to appoint an officer for that House. The words were, on a motion to that effect, struck out.

Another clause was for appointing a Committee of Commerce. On motion, it was agreed to add the words and *Agriculture*.

One of the rules is in these words:

"No petition to controvert the election of a member returned to serve in this House, shall be received unless the same be presented within fifty days after the member petitioned against shall take his seat."

Mr. GILES wished to hear a reason for this restriction, in point of time, from any of the gentlemen, who were on the committee that framed the report before the House. He had doubts of its propriety.

Mr. SEDGWICK inclined to think that the rule should be expunged. It was a delicate matter to pass restrictions, wherein they might be personally interested. The clause was struck out.

Mr. GOODHUE objected that the Doorkeeper should not be excluded from the House during the reading of confidential communications. He

might be wanted, were it only to take care of the fire.

Mr. SEDGWICK said that then there would be occasion to make him swear an oath of secrecy, and to form a rule to that effect. The proposal was negatived.

The rules were then, on motion, agreed to by the House, as follows:

STANDING RULES AND ORDERS OF THE HOUSE OF REPRESENTATIVES.

First.—Touching the Duty of the Speaker.

He shall take the Chair every day at the hour to which the House shall have adjourned on the preceding day; shall immediately call the members to order, and, on the appearance of a quorum, shall cause the Journal of the preceding day to be read.

He shall preserve decorum and order; may speak to points of order, in preference to other members, rising from his seat for that purpose, and shall decide questions of order, subject to an appeal to the House by any two members.

He shall rise to put a question, but may state it sitting.

Questions shall be distinctly put in this form, to wit: "As many as are of opinion that (as the question may be) say *Ay*;" and after the affirmative voice is expressed, "As many as are of a contrary opinion, say *No*." If the Speaker doubts, or a division be called for, the House shall divide; those in the affirmative of the question shall first rise from their seats, and afterwards those in the negative. If the Speaker still doubts, or a count be required, the Speaker shall name two members, one from each side, to tell the numbers in the affirmative; which being reported, he shall then name two others, one from each side, to tell those in the negative; which being also reported, he shall rise, and state the decision to the House.

All committees shall be appointed by the Speaker, unless otherwise specially directed by the House; in which case they shall be appointed by ballot; and if, upon such ballot, the number required shall not be elected, by a majority of the votes given, the House shall proceed to a second ballot, in which a plurality of votes shall prevail; and in case a greater number than are required to compose or complete the committee, shall have an equal number of votes, the House shall proceed to a further ballot or ballots.

In all cases of ballot by the House, the Speaker shall vote; in other cases he shall not vote, unless the House be equally divided, or unless his vote, if given to the minority, will make the division equal; and, in case of such equal division, the question shall be lost.

All acts, addresses, and joint resolutions, shall be signed by the Speaker; and all writs, warrants, or subpoenas, issued by order of the House, shall be under his hand and seal, attested by the Clerk.

In case of any disturbance or disorderly conduct in the gallery or lobby, the Speaker, (or Chairman of the Committee of the Whole House,) shall have power to order the same to be cleared.

Secondly.—Of Decorum and Debate.

When any member is about to speak in debate, or deliver any matter to the House, he shall rise from his seat, and respectfully address himself to Mr. Speaker.

If any member, in speaking, or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order; in which case the member so

called to order shall immediately sit down, unless permitted to explain; and the House shall, if appealed to, decide on the case, but without debate. If there be no appeal, the decision of the Chair shall be submitted to. If the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, and the case require it, he shall be liable to the censure of the House.

When two or more members happen to rise at once, the Speaker shall name the member who is first to speak.

No member shall speak more than twice to the same question, without leave of the House: nor more than once, until every member choosing to speak shall have spoken.

Whilst the Speaker is putting any question, or addressing the House, none shall walk out of, or across the House; nor in such case, or when a member is speaking, shall entertain private discourse; nor, whilst a member is speaking, shall pass between him and the Chair.

No member shall vote on any question in the event of which he is immediately and particularly interested; or in any other case where he was not present when the question was put.

Upon a division and count of the House on any question, no member without the bar shall be counted.

Every member who shall be in the House when a question is put, shall give his vote, unless the House, for special reasons, shall excuse him.

When a motion is made and seconded, it shall be stated by the Speaker, or, being in writing, it shall be handed to the Chair, and read aloud by the Clerk, before debated.

Every motion shall be reduced to writing, if the Speaker or any member desire it.

After a motion is stated by the Speaker, or read by the Clerk, it shall be deemed to be in possession of the House, but may be withdrawn at any time before a decision or amendment.

When a question is under debate, no motion shall be received, unless to amend it, to commit it, for the previous question, to postpone it to a day certain, or to adjourn.

A motion to adjourn shall be always in order, and shall be decided without debate.

The previous question shall be in this form: "Shall the main question be now put?" It shall only be admitted when demanded by five members; and, until it is decided, shall preclude all amendment and further debate of the main question.

On a previous question, no member shall speak more than once without leave.

Any member may call for the division of a question, where the sense will admit of it.

A motion for commitment, until it is decided, shall preclude all amendment of the main question.

Motions and reports may be committed at the pleasure of the House.

No new motion or proposition shall be admitted under color of amendment, as a substitute for the motion or proposition under debate.

When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the House.

The unfinished business in which the House was engaged at the time of the last adjournment, shall have the preference in the Orders of the Day; and no motion on any other business shall be received, without special leave of the House, until the former is disposed of.

In all other cases of ballot than for committees, a majority of the votes given shall be necessary to an election; and when there shall not be such majority on the first ballot, the ballot shall be repeated until a majority be obtained.

In all cases when others than members of the House may be eligible, there shall be a previous nomination.

If a question depending be lost by adjournment of the House, and revived on the succeeding day, no member who has spoken twice on the day preceding shall be permitted again to speak without leave.

Every order, resolution, or vote, to which the concurrence of the Senate shall be necessary, shall be read to the House, and laid on the table, on a day preceding that in which the same shall be moved, unless the House shall otherwise expressly allow.

Petitions, memorials, and other papers, addressed to the House, shall be presented by the Speaker, or by a member in his place, and shall not be debated or decided on the day of their being first read, unless where the House shall direct otherwise; but shall lie on the table, to be taken up in the order they were read.

Any fifteen members, (including the Speaker, if there is one,) shall be authorized to compel the attendance of absent members.

Upon calls of the House, or in taking the yeas and nays on any question, the names of the members shall be called alphabetically.

Any member may excuse himself from serving on any committee at the time of his appointment, if he is then a member of two other committees.

No member shall absent himself from the service of the House, unless he have leave, or be sick, and unable to attend.

Upon a call of the House, the names of the members shall be called over by the Clerk, and the absentees noted; after which, the names of the absentees shall be again called over, the doors shall then be shut, and those for whom no excuse, or insufficient excuses are made, may, by order of the House, be taken into custody, as they appear, or may be sent for, and taken into custody, wherever to be found, by special messengers to be appointed for that purpose.

When a member shall be discharged from custody, and admitted to his seat, the House shall determine whether such discharge shall be with, or without paying fees; and, in like manner, whether a delinquent member, taken into custody by a special messenger, shall, or shall not, be liable to defray the expense of such special messenger.

A Sergeant-at-Arms shall be appointed, to hold his office during the pleasure of the House, whose duty it shall be to attend the House during its sitting; to execute the commands of the House, from time to time, together with all such process issued by authority thereof, as shall be directed to him by the Speaker.

The fees of the Sergeant-at-Arms shall be, for every arrest, the sum of two dollars; for each day's custody and release, one dollar; and for travelling expenses of himself, or a special messenger, going and returning, one-tenth of a dollar per mile.

Four standing committees shall be appointed at the commencement of each session, viz.:

A Committee of Elections, a Committee of Claims, a Committee of Commerce and Manufactures—to consist of seven members each: And a Committee of Revision and Unfinished Business—to consist of three members.

It shall be the duty of the said Committee of Elections to examine and report upon the certificates of election

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or other credentials of the members returned to serve in this House, and to take into their consideration all such petitions and other matters touching election, and returns, as shall or may be presented, or come in question, and be referred to them by the House.

It shall be the duty of the said Committee of Claims to take into consideration all such petitions and matters or things touching claims or demands on the United States, as shall be presented, or shall or may come in question, and be referred to them by the House, and to report their opinion thereon, together with such propositions for relief therein, as to them shall seem expedient.

It shall be the duty of the said Committee of Commerce and Manufactures to take into consideration all such petitions and matters or things, touching the commerce and manufactures of the United States, as shall be presented, or shall or may come in question, and be referred to them by the House, and to report, from time to time, their opinion thereon.

It shall be the duty of the said Committee of Revision and Unfinished Business to examine and report what laws have expired, or are near expiring, and require to be revived or further continued; also, to examine and report from the Journal of the last session, all such matters as were then depending and undetermined. It shall also be the duty of the said committee to revise the laws for the establishment of offices, and to report, from time to time, such provisions or expenses attending them, as may appear to have become necessary.

No committee shall sit, during the sitting of the House, without special leave.

The Clerk of the House shall take an oath for the true and faithful discharge of the duties of his office, to the best of his knowledge and abilities; and shall be deemed to continue in office until another be appointed.

It shall be the duty of the Clerk of the House, at the end of each session, to send a printed copy of the Journal thereof to the Executive, and to each branch of the Legislature, of every State.

Whenever confidential communications are received from the President of the United States, the House shall be cleared of all persons, except the members and the Clerk, and so continue during the reading of such communications, and (unless otherwise directed by the House) during all debates and proceedings to be had thereon. And when the Speaker, or any other member, shall inform the House that he has communications to make, which he conceives ought to be kept secret, the House shall, in like manner, be cleared till the communication be made; the House shall then determine whether the matter communicated requires secrecy or not, and take order accordingly.

Thirdly.—Of Bills.

Every bill shall be introduced by motion for leave, or by an order of the House, on the report of a committee; and, in either case, a committee to prepare the same shall be appointed. In cases of a general nature, one day's notice, at least, shall be given of the motion to bring in a bill; and every such motion may be committed.

Every bill shall receive three several readings in the House previous to its passage; and all bills shall be despatched in order as they were introduced, unless where the House shall direct otherwise; but no bill shall be twice read on the same day without special order of the House.

The first reading of a bill shall be for information;

and, if opposition be made to it, the question shall be, "Shall the bill be rejected?" If no opposition be made, or if the question to reject be negatived, the bill shall go to its second reading without a question.

Upon the second reading of a bill, the Speaker shall state it as ready for commitment or engrossment; and, if committed, then a question shall be, whether to a select committee, or to a Committee of the Whole; if to a Committee of the Whole House, the House shall determine on what day. But, if the bill be ordered to be engrossed, the House shall appoint the day when it shall be read the third time. After commitment and report thereof to the House, a bill may be recommitted, or at any time before its passage.

All bills ordered to be engrossed shall be executed in a fair round hand.

When a bill shall pass, it shall be certified by the Clerk, noting the day of its passing at the foot thereof.

Fourthly.—Of Committees of the Whole House.

It shall be a standing order of the day, throughout the session, for the House to resolve itself into a Committee of the Whole House on the state of the Union.

In forming a Committee of the Whole House the Speaker shall leave his Chair, and a Chairman to preside in Committee shall be appointed by the Speaker.

Upon bills committed to a Committee of the Whole House, the bill shall be first read throughout by the Clerk, and then again read and debated by clauses, leaving the preamble to be last considered; the body of the bill shall not be defaced or interlined; but all amendments, noting the page and line, shall be duly entered by the Clerk on a separate paper, as the same shall be agreed to by the Committee, and so reported to the House. After report, the bill shall again be subject to be debated and amended by clauses before a question to engross it be taken.

All amendments made to an original motion in Committee, shall be incorporated with the motion, and so reported.

All amendments made to a report committed to a Committee of the Whole House, shall be noted and reported as in the case of bills.

All questions, whether in Committee or in the House, shall be propounded in the order in which they were moved, except that in filling up blanks the largest sum and longest time shall be first put.

No motion or proposition for a tax or charge upon the People shall be discussed the day in which it is made or offered, and every such proposition shall receive its first discussion in a Committee of the Whole House.

No sum or quantum of tax or duty voted by a Committee of the Whole House, shall be increased in the House, until the motion or proposition for such increase shall be first discussed and voted in a Committee of the Whole House; and so in respect to the time of its continuance.

All proceedings touching appropriations of money, shall be first moved and discussed in a Committee of the Whole House.

The rules of proceeding in the House shall be observed in Committee, so far as they may be applicable, except the rule limiting the times of speaking.

No standing rule or order of the House shall be rescinded without one day's notice being given of the motion therefor.

Joint Rules and Orders of the two Houses.

In every case of an amendment of a bill agreed to in

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one House and dissented to in the other, if either House shall request a conference, and appoint a committee for that purpose, and the other House shall also appoint a committee to confer, such committees shall, at a convenient hour, to be agreed on by their Chairman, meet in the Conference Chamber, and state to each other verbally, or in writing, as either shall choose, the reasons of their respective Houses for and against the amendment, and confer freely thereon.

When a message shall be sent from the Senate to the House of Representatives, it shall be announced at the door of the House by the Doorkeeper, and shall be respectfully communicated to the Chair by the person by whom it may be sent.

The same ceremony shall be observed when a message shall be sent from the House of Representatives to the Senate.

Messages shall be sent by such persons as a sense of propriety in each House may determine to be proper.

While bills are on their passage between the two Houses, they shall be on paper, and under the signature of the Secretary or Clerk of each House, respectively.

After a bill shall have passed both Houses, it shall be duly enrolled on parchment by the Clerk of the House of Representatives, or the Secretary of the Senate, as the bill may have originated in the one or the other House, before it shall be presented to the President of the United States.

When bills are enrolled, they shall be examined by a Joint Committee of one from the Senate, and two from the House of Representatives, appointed as a Standing Committee for that purpose, who shall carefully compare the enrolment with the engrossed bills as passed, in the two Houses, and, correcting any errors that may be discovered in the enrolled bills, make their report forthwith to the respective Houses.

After examination and report, each bill shall be signed in the respective Houses, first by the Speaker of the House of Representatives, and then by the President of the Senate.

After a bill shall have thus been signed in each House, it shall be presented by the said committee to the President of the United States for his approbation, it being first endorsed on the back of the roll, certifying in which House the same originated; which endorsement shall be signed by the Secretary or Clerk (as the case may be) of the House in which the same did originate, and shall be entered on the Journal of each House. The said committee shall report the day of presentation to the President, which time shall also be carefully entered on the Journal of each House.

All orders, resolutions, and votes, which are to be presented to the President of the United States for his approbation, shall also, in the same manner, be previously enrolled, examined, and signed; and shall be presented in the same manner, and by the same committee, as provided in case of bills.

When the Senate and House of Representatives shall judge it proper to make a joint Address to the President, it shall be presented to him in his Audience Chamber by the President of the Senate, in the presence of the Speaker and both Houses.

Ordered, That a Committee of Commerce and Manufactures be appointed, pursuant to the Standing Rules and Orders of the House; when Mr. GOODHUE, Mr. BOURNE, Mr. LIVINGSTON, Mr. SWANWICK, Mr. S. SMITH, Mr. PARKER, and Mr. W. SMITH, were appointed, and the House adjourned.

TUESDAY, December 15.

Mr. HEATH laid the following motion on the table:

Resolved, That a committee be appointed to inquire whether any and what amendments may be necessary to the act regulating processes in the Courts of the United States.

Mr. LIVINGSTON laid the following motion on the table:

Resolved, That a committee be appointed to inquire and report whether any and what alterations should be made in the penal laws of the United States, by substituting milder punishments for certain crimes for which infamous and capital punishments are now inflicted.

Mr. SMITH, of S. C., laid the following motion on the table:

Resolved, That a committee be appointed to inquire and report what proceedings had been had in pursuance of the act passed at the last session for the promulgation of the laws of the United States, and whether any and what amendments may be necessary to the said act.

ADDRESS TO THE PRESIDENT.

Sundry memorials and petitions having been presented and referred,

The House then resolved itself into a Committee of the Whole, Mr. MUHLENBERG in the Chair, on the draft of an answer to the President's Speech. The following sentence being under consideration:

"Contemplating that probably unequalled spectacle of national happiness, which our country exhibits, to the interesting summary which you, sir, have been pleased to make, in justice to our own feelings, permit us to add the benefits which are derived from your presiding in our councils, resulting as well from the undiminished confidence of your fellow citizens, as from your zealous and successful labors in their service."

Mr. PARKER moved to strike out the words "probably unequalled," and from the word "councils," to the end. He owned that the United States owe much to the President for his services on most occasions; but he had sometimes erred as other men. He could not for his own part subscribe to the expressions contained in the words which he had moved to strike out; his confidence in the President was diminished in consequence of a late transaction.

Mr. SHERBURNE called for a division of the question; that a question should first be put upon the words "probably unequalled," and afterwards upon striking out the latter part of the clause.

The question was accordingly put upon the words "probably unequalled," and they were struck out 43 to 39.

Mr. MURRAY rose to make a few observations on the motion for striking out from the word "councils." As a Representative from Maryland, he said, he could not on this occasion be contented to give a silent vote. The Legislature of that State had not long since declared, that their confidence in the President remains undiminished; and though his single sentiment might be deemed unimportant when viewed in connexion with the

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unanimous vote of his State, yet he was free to declare, that his confidence in the Chief Magistrate had experienced no diminution. The Legislature of Maryland, he observed, had foreseen that attempts would be made, and saw that unjustifiable attempts were actually making to diminish the confidence of the people in the PRESIDENT; they therefore resolved to give the sanction of their unanimous vote to his character, declaring that the PRESIDENT retained their confidence, and that he had merited it. Though not bound by the opinion of the Legislature of that State, he conceived it his duty not to give a silent vote on the present occasion.

Mr. GILES had hoped that nothing would have been brought before the House calculated to disturb the harmony that ought to subsist, by involving the discussion of delicate points. He had as much zeal as any man for the preservation of the PRESIDENT's fame and reputation; but he could not go the length of the expressions in the clause objected to. He could not agree to it in its present shape, because the assertion in it does not correspond with the fact. After this remark, there could not, he conceived, be any inconsistency in voting against the word and still feeling a regard for the PRESIDENT. He hoped his fame and reputation might never receive a stain, but pass unimpaired to posterity. He should vote for striking out.

Mr. FREEMAN wished the motion might be so modified as to involve the striking out of the word "undiminished" only. Though he for himself, he observed, might say that his confidence in the PRESIDENT was undiminished, he could not utter the same sentiment in behalf of the people at large. In his opinion the confidence of a part (a very small one perhaps) of the people was diminished; though that of a majority might be unshaken.

Mr. HARPER said he had no difficulty in declaring that his own confidence in the PRESIDENT was undiminished, but he could not go so far as to pledge himself that that of all the people was so. He never, he said, had been in the habit of worshipping the PRESIDENT. He considered him as a man, not infallible, but as a wise, honest, and faithful public servant, and he was prepared in all places and situations to declare this opinion; but he was not ready to pronounce concerning the opinion of the people of the United States. Some time hence they may become unanimous in their confidence; but he could not say that it was not diminished. He was ready to declare for himself but not for others. If called upon to declare whether a majority, whether four-fifths of the people retained their confidence in the PRESIDENT, he could declare it as his opinion in the affirmative; but the clause as it stands includes the whole, and he declared as it stood could not command his vote. He concluded by expressing his intention, when it would be in order, to introduce a modification of the clause, so as to express the undiminished confidence of the House in the PRESIDENT.

Mr. PARKER, in coincidence with the wish of

Mr. FREEMAN, agreed to confine his motion to striking out the word "undiminished."

Mr. SEDGWICK doubted whether, after a division of the question, and a question being taken on the first part, a modification of the second part would be in order.

The Chairman declared it in order.

Mr. SEDGWICK viewed the present motion as even more objectionable than the first; it went directly to a denial of undiminished confidence for the PRESIDENT on the part of the House and the public. There was a time, he said, when no man could have supposed that the period would have arrived, that in the popular branch of the Government, the confidence of the people and their Representatives in that man could have been questioned.

Having been on the committee that framed the answer, and maturely considered the subject in every part, he would mention some of the observations that occurred to his mind particularly in favor of the part now objected to. Lest in the course of them his sensibility on this subject should betray him into some warmth of expression, he begged leave to premise that he wished to wound the feelings of no man.

It was proper he said to inquire into facts on which the expression now objected to was grounded. Is the confidence of the people in the services, and patriotism, and wisdom, of the Chief Magistrate diminished? His experience led him to say no; then, in the existing circumstances, is it not right for the representatives to make the declaration to their constituents and the world? To suppose the people, who, at the present moment, enjoyed so many blessings under the PRESIDENT's administration, could feel their confidence in him impaired, would suppose a baseness of disposition unworthy of them and of the services he has rendered. Who could review the glorious conduct of our Chief, during the conflict of the Revolution, his unwearying labors for the public good, his bravery, moderation and humanity; who could observe him in his happy retirement, covered with glory, and accompanied by the blessings of his country; then forsaking his retirement, putting at hazard the mighty mass of his reputation, and be insensible of his services? Who could review the critical situation in which he preserved our peace and prosperity during a glorious administration of six years; who could review these things and not have his heart filled with gratitude and esteem? He expressed his belief that a late measure of the Executive was less the object of the dislike of some, than affording the opportunity for the vent of passions and feelings deep rooted before.

As to the sense of the people of the PRESIDENT, he believed it unaltered, as to his immediate constituents he was sure it was; and if so, it was the duty of the House to make the declaration to the world—a duty the House owed to themselves and their constituents, and the more binding from the nature of the Government the people had chosen.

Though the PRESIDENT had twice been called to the Presidency by the unanimous and unsolicited voice of his fellow-citizens; though in obe-

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dience to that voice he had made a sacrifice no other man would have made; though the only reward he has received for his services has been the approbation of his country, yet, nevertheless, licentious presses had lately teemed with infamous and scandalous abuse of him. Is this, he asked, consonant to the feelings of the House, and shall they not attempt to counteract its effects in the only constitutional manner? Shall they not declare their own and their constituents' confidence undiminished in that officer of the Government?

He has told the Legislature that he wishes to co-operate, to preserve unimpaired the blessings we enjoy. Does the House believe this? then is it wrong to express their confidence?

He believed, he said, that the efforts made to destroy the character of this first of men, instead of producing the mischief intended, would effect the contrary; and he also expressed his belief that the tide of his popularity at the present moment flowed with unusual strength.

It has been intimated, he observed, that sanctioning the vote of confidence contemplated in the clause of the Address under consideration, would implicate an approbation of a late measure of the Executive, and would preclude the possibility of a free opinion when that measure might come under the consideration of the House. He declared, upon his honor, that he had no intention that the vote now contemplated should have that effect. He did not conceive that the vote of undiminished confidence, which he now pressed, involved an approbation of all the measures of the Executive; it did not exclude the idea of fallibility; for what man is infallible? It only implied, according to his conception, an approbation of the general tenor of the conduct of the Executive. When the House express their confidence in a public officer, they cannot mean that they believe him infallible, but only that his character, grounded on his general conduct, receives their approbation.

If, when the Chief Magistrate is attacked in the manner the PRESIDENT has been attacked, he is left to be overwhelmed with unmerited abuse; what man with talents to be useful, a reputation to be injured, or feelings to be wounded—what man will hazard all to serve an ungrateful country? It will render the station of Chief Magistrate sought only by mercenaries. If confidence is denied to the Executive, it will only create vacancies in the high offices of Government to be filled by those harpies who prey upon the vitals of the State.

Another consideration, he said, should have an influence on this occasion. The fame of the Chief Magistrate's character has filled the whole world; the Americans are particularly distinguished as a people for their uniform attachment towards him. If, at this time of day, they indirectly declare their want of confidence in that man, they will justify the malignant predictions which have been uttered against our system of Government.

These considerations, he said, had weighed on his mind. If the motion for striking out prevailed,

he declared it would distress him beyond any circumstance that had occurred to him during his public life, especially at this period, and under the present circumstances of affairs. He should consider the prevalence of this motion as tantamount to a declaration, that the House and their constituents did not feel their confidence in the PRESIDENT unimpaired.

Mr. LIVINGSTON lamented the situation which the drafted Address reduced the House to; but he could not give his assent to it as it stood; he should vote for striking out the word "undiminished," if a question on it should be urged. He did not conceive himself called to a seat in the House to express opinions, much less the opinions of others, but to make laws. He felt so much the delicacy of the situation which the wording of the Address had placed the House in, that he wished the dilemma of a vote might be avoided. The gentleman last up also lamented the situation, and justly observed, that striking the word out was tantamount to a declaration that the confidence reposed in the PRESIDENT was diminished. But he begged to remind him that it was the framers of the Address, and he was one of them, that involved the House in this disagreeable situation.

He declared himself so young in the parliamentary proceedings, as not exactly to know how to avoid a question on the present motion. He declared he was not prepared to say what the opinion of his constituents concerning the PRESIDENT was. The confidence of many of them he knew was shaken; that of others was increased.

He moved, if in order, that the Committee should rise, and the Address be recommitted.

This was carried, and MESSRS. FREEMAN and BALDWIN added to the committee.

Adjourned.

WEDNESDAY, December 16.

THOMAS CLAIBORNE, from Virginia, appeared, produced his credentials, was qualified, and took his seat.

ADDRESS TO THE PRESIDENT.

Mr. MADISON, from the committee to whom had been recommended the draft of the Address in answer to the PRESIDENT'S Speech, brought in a report. The clause now added consisted of a modification of the clause objected to yesterday. On motion, the House went into a Committee of the Whole, Mr. MULLENBERG in the Chair. The amendment was unanimously agreed to. Mr. GILES then moved an amendment in the third line of the last paragraph. It was thus: for "the several interesting subjects which you recommended to our consideration will receive every degree of *it*," read of *attention*. The Committee then rose, and the House agreed to the report.

It was then moved and agreed to, that the SPEAKER, attended by the House, do present the Address, as amended, to the PRESIDENT, and that a committee should be appointed to wait on the PRESIDENT, to know where and when he will be ready to receive the Address of the House.

The same gentlemen, viz: Mr. MADISON, Mr. SEDGWICK, and Mr. SETTGREAVES, who had been first appointed to draft the Address, were named for waiting on the PRESIDENT.

SURVEY OF THE SOUTHERN COAST.

Mr. HARPER moved that a committee should be appointed to report on the memorial presented to the House, last session, by Messrs. PARKER, HOPKINS, and MEERS. These gentlemen had been employed in making drafts of some part of the coast of the Southern States. The funds were not adequate to defraying the necessary expenses; and, as the undertaking was in reality of serious national concern, the memorialists entertained a hope that Congress would interfere, and grant them some aid towards completing the charts. This is a summary of the business, as laid before the House of Representatives a short time before the end of last session. The memorial was now read over by the Clerk, and referred to a committee of five members.

Mr. TRACY submitted a resolution relative to the law for receiving subscriptions to the last loan of the Government of the United States, which law is now nearly expired. The resolution was laid on the table.

Mr. GILES moved that a committee should be appointed to bring in a bill for establishing an uniform system of bankruptcy in the United States. This was agreed to. It was then asked of what number the committee should consist? Mr. HARPER hoped that three, the smallest number proposed, would be preferred, as it was constantly found that the more numerous a committee was, the less probability there would be of their going speedily through the business. Mr. GILES, Mr. HILLHOUSE, and Mr. DUVALL were named as the committee.

Mr. HILLHOUSE moved a resolution that a committee be appointed to examine whether any and what alterations ought to be made in an act, entitled, an act for laying a duty on carriages for conveying of persons. The resolution passed, and a committee of three members was named.

Leave was asked to bring in a bill for allowing compensation to members and officers of both Houses of Congress, from the 3d of March next. Mr. GOODhue, Mr. NICHOLAS, and Mr. EARLE, were appointed.

It was next moved for leave to bring in a bill for the relief of John R. Livingston. Mr. TRACY stated, that the business was now before the Committee of Claims, and he thence conceived, that in this state of the business, it was improper to name a committee for bringing in of such a bill. On motion, a former report of the Committee of Claims was referred to a Committee of the Whole House, and made the order of the day for to-morrow.

Mr. W. SMITH stated, that by order of the House, he had brought in a bill, last session, for opening a Land Office, but it was too late in the session to get the business gone through. He now gave notice that he would move for leave to bring in a bill for opening a Land Office.

Mr. HARTLEY called the attention of the House to several petitions, presented last session, from sundry persons settled on lands in the Western territory, and gave notice that he should bring the subject before the House to-morrow.

The committee that had been appointed to wait on the PRESIDENT, returned with notice that he would be ready to receive their Address, at his own house to-morrow at 12 o'clock.

The House then adjourned.

THURSDAY, December 17.

WADE HAMPTON, from South Carolina, and JOHN HATHORN, from New York, appeared, produced their credentials, were qualified, and took their seats.

The Clerk read a letter from Mr. Samuel Meredith, Treasurer of the United States, to the SPEAKER of the House. It was accompanied with statements of public expenditure of money, of which the usual number were ordered to be printed.

SNUFF MANUFACTURE.

There was then presented and read by Mr. SEDGWICK, the petition of Francis Wright, snuff-maker in Boston. He complained, in very strong terms, of the present excise law as to snuff manufactured in the United States, as in the highest degree unequal and oppressive to the manufacturer. He represented, that there was the utmost facility in smuggling, while the duty on foreign snuff imported was too small to prevent an alarming competition. He considered the law altogether as a prohibition of working. The reader will observe, that by the first act passed in 1794, the duty was imposed in proportion to the quantity of snuff manufactured; many objections and complaints having been made against this mode of collecting the revenue, the duty was transferred to the mills, mortars, and hand-mills employed, which now, by the act of 1795, pay a certain stipulated sum, whether they work much or little, and this is the basis of the complaint made by Mr. Wright, who states that by exacting an arbitrary sum, the great manufacturer and the lesser one are placed upon a level in regard to the quantum of excise, and of this circumstance, Mr. Wright warmly complains. He concludes by earnestly soliciting that the new law may be repealed, and the old one restored in its place. The petition was, on motion, referred to the Committee of Commerce and Manufactures.

MAGNUS KING.

Mr. TRACY moved that the report of the Committee of Claims of last House of Representatives, on the petition of Magnus King and others, should be taken up for the purpose of permitting the petitioners to withdraw their petition. This was agreed to.

The House then resumed the consideration of the report on the petition of Magnus King and others. Mr. GALLATIN wanted to hear the papers on this subject read before the petition should be

rejected, that the House might know with certainty what they were doing.

In reply, it was observed by Mr. TRACY, that the motion for granting leave to withdraw the petition was made at the desire of the parties themselves, who had been with Mr. TRACY this morning, and requested leave to withdraw their petition. He hoped that, after this explanation, no objection could be made. Leave was accordingly granted.

On motion of Mr. W. SMITH, the resolution for opening a Land Office, was taken up and passed; and Mr. SMITH, Mr. HARTLEY, Mr. NICHOLAS, Mr. KITCHELL, and Mr. GLEN, were appointed a committee to prepare and bring in a bill.

A memorial was presented and read against the election of Mr. JOHN SWANWICK, present Representative of the city of Philadelphia in Congress.

Mr. SWANWICK observed that he had, some time ago, heard of the intention to bring forward this memorial. He felt himself extremely interested to have the facts stated in it examined with the utmost celerity, and should move that the memorial may be immediately referred, for this purpose, to the Committee of Elections. The memorial was referred accordingly.

PRESIDENT'S SPEECH.

The House then went into a Committee upon the resolutions proposed by Mr. W. SMITH, some days ago.

On the article which mentions the farther provision which ought to be made for the security of the frontiers, and for protecting the Indians from the disorderly inhabitants of the frontiers, Mr. BLOUNT observed that the expressions used on this subject by Mr. HARPER, and by a member from Connecticut, had given very great offence to the frontier people. He said this from having lately been in that country, where he learned the circumstance. He was glad to hear that the gentlemen in question did not wish to use the same words again. He was for striking out the offensive implication in the clause. Mr. FINDLEY and Mr. NICHOLAS concurred in this opinion, which was agreed to.

Mr. TRACY said that he was ready to vote for the resolution thus curtailed, if gentlemen would declare it as being understood, that the Indians were to be protected against the frontier people. He did not think that we were to protect them against the Spaniards, who never, to his knowledge, had attempted to disturb them. It was not certainly against the other Indians. If, then, it was not against the frontier people, the resolution had no meaning.

Mr. MILLIDGE stated the impropriety and imprudence of offending the frontier people, many of whom, if not the best, were among the best people in the United States.

Mr. HEATH stated, as a notorious fact, known to every person in the United States, that there are lawless persons on the frontiers, who have committed very great enormities against the In-

dians. He did not wish to irritate. There may be many very good people upon the frontier; he was satisfied that there were many very bad ones. The resolution was agreed to as amended.

The next resolution was for making provision to supply the Indians in time of peace, and on such principles as might tend to promote mutual tranquility.

Mr. VENABLE thought, that instead of taking up this resolution, it would be better to take up the law of last year, and see if it wants amendment.

Mr. DEARBORN moved that a special committee should be appointed to inquire if any alteration was necessary in the act, passed last year, for establishing trading houses with the Indians.

Mr. SWIFT said that no law had been passed, so that there could be no alteration of it. There was only an appropriation of fifty thousand dollars for the establishing of Indian trading houses.

Mr. PARKER stated that this was the fact. He had given a great deal of attention, last year, to this business. No law had passed.

Mr. SMITH said, in the last session there was only provision made of a fund for trading with the Indians. The matter was finally referred to a special committee, to bring in a bill.

The next resolution taken up was, that inquiry ought to be made whether farther means should be provided to reinforce the existing operations for the discharge of the Public Debt.

Mr. GALLATIN gave in a long amendment. Its object was to appoint a committee to superintend the general operations of finance. No subject, Mr. G. said, more required a system, and great advantages would be derived from it. The motion was seconded by Mr. FINDLEY.

Mr. W. SMITH did not object to the amendment in itself, but as embracing a quite distinct object from the original resolution, he apprehended that, in the shape of an amendment, it would be out of place. The resolution was withdrawn.

The resolution suggested by Mr. SWANWICK, as to an inquiry into the state of the American Navy, &c., was likewise agreed to. The Committee then rose, and the Chairman reported that they had gone into consideration of the state of the Union, and come to sundry resolutions, which were again read over by the Clerk.

The first resolution, for inquiring into the state of the Military Establishment, passed, and a committee of five members were appointed to report.

The resolution regarding the Militia of the United States was likewise agreed to, and a committee of fourteen members named.

The resolution for the protection of the Indians gave occasion for a few words as to the mode of wording the clause. A committee of three members was proposed for preparing and reporting a bill.

Mr. BLOUNT thought this number too small. He would wish for a much larger one, consisting of at least seven. He thought that some of the members from the frontier should be in it, as they could give considerable information on the sub-

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ject, and because, if not named in the committee, it could not be so certain that they would give their assistance. The motion for seven members was seconded by Mr. NICHOLAS. On a division of the House, the numbers on each side were thirty-eight, and the casting voice of the SPEAKER was for the larger number. It was proposed by Mr. W. SMITH, that Mr. WHITE, delegate from the Territory Southwest of the Ohio, should be added to the committee, as his local knowledge, and peculiar opportunities of information, pointed him out as an extremely proper member of it. The motion was agreed to.

Mr. BLOUNT having observed that he himself could cast considerable light on the state of the frontiers, from a recent journey through that part of the Union, he was named by the SPEAKER as one of the committee of seven. He requested to be excused, as he was already on the Committee of Elections, which would engross much of his attention, but assuring the House, at the same time, that he should, if his name was permitted to be withdrawn, give the committee every aid in his power. Leave was granted.

On reading the resolution as to a committee for inquiring about the existing operations on the Public Debt, Mr. NICHOLAS moved to reject it, that the resolution by Mr. GALLATIN might be adopted in its room, as it comprehended the object of Mr. W. SMITH in its own.

Mr. VENABLE seconded the motion, on the same ground.

Mr. HARPER approved the idea, but did not see the use of rejecting the resolution of Mr. SMITH. He would rather have that of Mr. GALLATIN added as an amendment. Mr. SWANWICK, was of the same opinion.

Mr. GALLATIN himself, on further consideration, thought his resolution not sufficiently digested for acting upon. He desired a postponement until Monday next of the resolution before the House.

Mr. SEDGWICK would readily have consented to this, if it had not been out of order.

Mr. GALLATIN read a rule of the House to show that the motion was in order. The SPEAKER declared the same thing. The motion for postponement was then adopted.

The following is a copy of the resolutions, as read at the Clerk's table :

Resolved, That it is the opinion of this committee that a committee be appointed to inquire whether any, and what, alterations ought to be made in the present Military Establishment of the United States.

Resolved, That it is the opinion of this committee that more effectual provision ought to be made for organizing, arming, and disciplining the Militia of the United States.

Resolved, That it is the opinion of this committee that effectual provision ought to be made for the security of the frontiers, and for the protection of the Indians from any injuries by any of the inhabitants of the United States.

Resolved, That it is the opinion of this committee that provision ought to be made for supplying the necessities of the Indian nations within our limits, on such

principles as shall best conduce to the preservation of harmony between those nations and the United States.

Resolved, That it is the opinion of this committee that an inquiry ought to be made whether further measures are necessary to reinforce the existing provision for the redemption of the Public Debt.

Resolved, That it is the opinion of this committee that an inquiry ought to be made, whether any, and what, further provisions are necessary for carrying the operations of the Mint more completely into effect.

Resolved, That it is the opinion of this committee that a committee ought to be appointed to inquire into the state of the Naval Equipment ordered by a former law of the United States; and to report whether any, and what, further provision is necessary to be made on that subject.

The first, second, third, and fourth resolutions were severally read the second time, and on the question put thereupon, agreed to by the House.

Ordered, That Mr. BALDWIN, Mr. BURGESS, Mr. MACLAY, Mr. WADSWORTH, and Mr. GRISWOLD, be appointed a committee, pursuant to the first resolution.

Ordered, That a bill or bills be brought in pursuant to the second resolution, and that Mr. GILES, Mr. GILMAN, Mr. DEARBORN, Mr. MALBONE, Mr. BUCK, Mr. TRACY, Mr. VAN CORTLANDT, Mr. THOMPSON, Mr. HEISTER, Mr. PATTEN, Mr. SAMUEL SMITH, Mr. LOCKE, Mr. HAMPTON, and Mr. MILLEDGE, do prepare and bring in the same.

Ordered, That a bill or bills be brought in pursuant to the third resolution, and that Mr. HILLHOUSE, Mr. COOPER, Mr. FINDLEY, Mr. JACKSON, Mr. FRANKLIN, Mr. HENDERSON, Mr. HARPER, and Mr. WHITE, do prepare and bring in the same.

Ordered, That a bill or bills be brought in pursuant to the fourth resolution, and that Mr. PARKER, Mr. SAMUEL LYMAN, and Mr. TATOM, do prepare and bring in the same.

Ordered, That the consideration of the fifth resolution be postponed until Monday next.

Ordered, That the sixth and seventh resolutions do lie on the table.

ADDRESS TO THE PRESIDENT.

At twelve o'clock, the SPEAKER, attended by the House, waited upon the PRESIDENT of the UNITED STATES, and delivered to him the following Address, in answer to his Speech to both Houses at the opening of the session :

SIR : As the Representatives of the people of the United States, we cannot but participate in the strongest sensibility to every blessing which they enjoy, and cheerfully join with you in profound gratitude to the Author of all Good for the numerous and extraordinary blessings which he has conferred on our favored country.

A final and formal termination of the distressing war which has ravaged our Northwestern Frontier, will be an event which must afford satisfaction proportioned to the anxiety with which it has long been sought ; and in the adjustment of the terms, we perceive the true policy of making them satisfactory to the Indians as well as to the United States, as the best basis of a durable tranquillity. The disposition of such of the Southern tribes as had also heretofore annoyed our frontier, is another prospect in our situation so important to the interest and happiness of the United States, that it is much to be la-

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Contested Election.

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mented that any clouds should be thrown over it, more especially by excesses on the part of our citizens.

While our population is advancing with a celerity which exceeds the most sanguine calculations—while every part of the United States displays indications of rapid and various improvement—while we are in the enjoyment of protection and security, by mild and wholesome laws, administered by Governments founded on the genuine principles of rational liberty, a secure foundation will be laid for accelerating, maturing, and establishing the prosperity of our country, if by treaty and amicable negotiation, all those causes of external discord which heretofore menaced our tranquility shall be extinguished, on terms compatible with our national rights and honor, with our Constitution and great commercial interests.

Among the various circumstances in our internal situation, none can be viewed with more satisfaction and exultation than that the late scene of disorder and insurrection has been completely restored to the enjoyment of order and repose. Such a triumph of reason and of law is worthy of the free Government under which it happened, and was justly to be hoped from the enlightened and patriotic spirit which pervades and actuates the people of the United States.

In contemplating that spectacle of national happiness which our country exhibits, and of which you, sir, have been pleased to make an interesting summary, permit us to acknowledge and declare the very great share which your zealous and faithful services have contributed to it and to express the affectionate attachment which we feel for your character.

The several interesting subjects which you recommend to our consideration will receive every degree of attention which is due to them. And whilst we feel the obligation of temperance and mutual indulgence in all our discussions, we trust and pray that the result to the happiness and welfare of our country may correspond with the pure affection we bear to it.

To the foregoing Address the PRESIDENT was pleased to make the following reply :

GENTLEMEN: Coming as you do from all parts of the United States, I receive great satisfaction from the concurrence of your testimony in the justness of the interesting summary of our national happiness, which, as the result of my inquiries, I presented to your view. The sentiments we have mutually expressed of profound gratitude to the source of these numerous blessings—the Author of all Good—are pledges of our obligations to unite our sincere and zealous endeavors, as the instruments of Divine Providence, to preserve and perpetuate them.

Accept, gentlemen, my thanks for your declaration, that to my agency you ascribe the enjoyment of a great share of these benefits. So far as my services contribute to the happiness of my country, the acknowledgment of my fellow-citizens, and their affectionate attachment, will ever prove an abundant reward.

G. WASHINGTON.

FRIDAY, December 18.

CONTESTED ELECTION.

Mr. VENABLE gave in a report from the Committee of Elections on the memorial of JOHN RICHARDS, respecting the contested election between him and JAMES MORRIS, now deceased.

The report was read by the Clerk, which was that the seat of JAMES MORRIS is declared vacated; and it is recommended that the Governor of Pennsylvania should issue writs for a new election.

Mr. SITGREAVES moved that the report of the Committee on Elections should be read a second time. This being done, the member stated that Mr. RICHARDS had gone back to the country under an idea of acquiescing in the report. Upon this ground he moved that the report should be approved of by the House.

Mr. HEISTER stated that he had seen a letter to Mr. RICHARDS, informing him of sickness in his family, and that was the only cause of his immediate return to the country, as he had no design of submitting tacitly to the report.

Mr. VENABLE entered into a detail of the circumstances attending this election. He recommended that the House should avoid precipitation. He said that the committee, in their report, had not completely decided the business.

Mr. KITTERA likewise entered into a minute discussion of the circumstances attending the election.

Mr. SITGREAVES explained, that he had proposed to the House to take up the report of the committee, under an impression that Mr. RICHARDS, by leaving town, was satisfied and willing to submit to it. He withdrew his motion.

Mr. VENABLE was proceeding to the merits of the case, when he was reminded by the SPEAKER that there was no question before the House.

Mr. GALLATIN then moved that the report should be re-committed to the select committee, for which he gave various reasons. Mr. SITGREAVES seconded the motion.

Mr. HARPER was for the re-commitment. He observed that the arguments of Mr. GALLATIN had been adopted and acted upon by the committee.

The report was, on motion, read a second time. The cause of this contested election appears to have been chiefly the absence of a great number of electors in this district of Pennsylvania, upon the Western expedition. They were authorized, by a particular law to that effect, to vote for a Representative in Congress, provided that the returns were made within a specified legal time. The votes returned within that time for the deceased Mr. MORRIS were 1,648, and those for Mr. RICHARDS 1,635. This gave to the former a majority of 13.

Mr. SITGREAVES understood the complaint of Mr. RICHARDS to be, that the unsound votes objected to were comprehended in the preceding numbers, whereas Mr. SITGREAVES, himself a member from the same district, and who being on the spot at the time of the dispute, could speak with accuracy, knew that the fact was otherwise.

Mr. SWIFT said, that as the gentleman who was last up spoke from personal knowledge, he supposed of course that his assertion was true; but Mr. RICHARDS himself had said to the committee that all the unsound votes had been returned after the time prescribed by law. Perhaps he had misunderstood himself, but Mr. SWIFT thought a re-

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commitment necessary for the sake of explanation. Mr. FINDLEY argued on the same side. The report was re-committed.

UNFINISHED BUSINESS.

The House, on motion of Mr. GOODHUE, took up the report of the Committee on the Unfinished Business. The report was again read.

The first law recited as being near expiring, is the law for receiving on loan the Domestic Debt of the United States; this law expires the 31st December, 1795. A committee of three was appointed, to report by bill or otherwise on the expediency of extending the term of the law.

The next article in the report refers to sundry acts which will expire at the end of the present session.

These acts are for establishing a Health Office, the act respecting light-houses, beacons, &c.

On motion they were referred to the committee last appointed.

The several acts providing for the intercourse of the United States with foreign nations, will expire at the end of the present session.

On motion, referred to the same committee, to consider and report on the propriety of continuing these acts.

The act for renewing lost or destroyed certificates will expire in June next. It was moved that this should be referred to the same committee, to report on the expediency of continuing the same beyond that period. This motion was withdrawn, it appearing that the object of this law would then be fully accomplished.

The unfinished business of the last session was then recapitulated.

Mr. SEDGWICK moved that the opinion of the committee annexed to the report, which is, that all reports and petitions depending or undecided upon by the last House, should be taken up on motion of individual members or application of the petitioners, should be adopted by the House. This proposition was agreed to.

The House then proceeded in the consideration of the resolutions reported by the Committee of the Whole on the state of the Union.

The resolution relative to the Mint was passed over. It appearing that the subject was before the Senate.

The resolution relative to the Naval Equipment was then read.

Mr. BOURNE proposed that the Committee should be instructed to extend their inquiries to the state of the fortifications of the ports and harbors. It appeared that information on the subject of the Naval Equipment was preparing to be laid before the House.

On motion of Mr. SHERBURNE, it was voted that the resolution should lie over till Monday. Mr. SWANWICK laid on the table a resolution for a committee to inquire into the state of the fortifications; the progress made relative to procuring sites for arsenals; also, in relation to procuring arms and military stores.

It was moved that the Committee of the Whole be discharged from the consideration of the letter

from the Secretary of War, accompanied with sundry statements and reports. The motion was agreed to.

The House then attended to the reading of the papers received from the Secretary of War. The first paper read was a report relative to the Military Establishment of the United States.

2d. Report of the measures that have been pursued for obtaining proper sites for arsenals.

3d. Report of the measures that have been taken for replenishing the arsenals with arms, ordnance, and military stores.

4th. Report of the measures taken for opening trade with the Indian tribes.

5th. A statement of the progress that has been made in the building the frigates generally:

The 6th, 7th, 8th, 9th and 10th particular statements of the progress made in building the frigates constructing in Philadelphia, New York, Boston, Norfolk, Baltimore, and Portsmouth, New Hampshire.

On motion of Mr. SWANWICK, the letter of the Secretary of War, with the accompanying statements and reports, were referred to the Committee of the Whole on the state of the Union.

There was next received and read a report, dated this day, from the Commissioners of the Sinking Fund, stating the progress which has been made in redeeming the Public Debt. The usual number of copies of the report, and statements which accompanied it, was ordered to be printed for the use of the members.

Mr. HEATH laid on the table a motion for appointing a committee to inquire if any, or what alterations are necessary to be made in the act for establishing the Post Office and Post Roads in the United States.

Mr. GALEATIN also laid on the table his resolution respecting the establishment of a Committee of Finance, which is to be taken up on Monday next.

Mr. LIVINGSTON called up his motion, laid on the table a few days ago, for appointing a committee to inquire and report whether any, and what, alterations ought to be made in the penal code of the United States.

After an amendment, the resolution was adopted, and a committee of three members appointed to report.

Mr. HARPER called up his motion that a select committee should be appointed to examine and report on the petition of Parker, Hopkins, and Meers, relative to a survey of the Southern Coast. The report of the select committee of last session was read. Mr. LYMAN saw no use for referring to a new committee. He would have the report referred as it stands, to a Committee of the Whole.

Mr. HARPER persisted in his motion for a new select committee. As far as he had been able to learn the rules and practice of the House, a new committee was requisite. Perhaps they might adopt the old report without altering a word of it. They were at liberty to do so.

Mr. MACON said that it was the practice to make everything begin *de novo*. The resolution was

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accordingly carried, and a committee of three members, viz: Mr. HARRISON, Mr. HAMPTON, and Mr. HAVENS, were nominated for that purpose.

The House then adjourned till Monday next.

MONDAY, December 21.

A petition was presented by Mr. BRENT, from sundry inhabitants of Loudoun and Fairfax counties, Virginia, praying the extension of the post road through those districts. Laid on the table.

The House took up the resolution respecting the Post Office law, laid on the table last week by Mr. HEATH. This resolution was agreed to, and a committee appointed to make the necessary inquiry whether any, and what, alterations are necessary in that law. Nine members were nominated on the committee. The petition presented by Mr. BRENT was referred to the above committee.

Mr. GALLATIN called up his resolution for the appointment of a standing Committee of Ways and Means. This motion was agreed to *nem. con.*

It was moved that the committee consist of seven; this was objected to, as being too small a number. Fourteen were moved for. The inconveniences of so large a committee were stated; it was difficult to convene them; much time was wasted in waiting. The result had been, that a sub-committee had generally done the business. The advantages of a large committee were urged; more general information would be obtained; the objects were numerous and important; the settlement of principles would be more satisfactorily determined in a large committee, while the details and examination of accounts might be attended to by a sub-committee.

The motion for fourteen was agreed to, and the following gentlemen were appointed, viz:

MESSRS. WILLIAM SMITH, SEDGWICK, MADISON, BALDWIN, GALLATIN, BOURNE, GILMAN, MURRAY, BUCK, GILBERT, ISAAC SMITH, BLOUNT, PATTON, and ILLHOUSE.

To this committee are to be referred all reports from the Treasury Department, all propositions relating to revenue, and they are to report on the state of the Public Debt, revenues, and expenditures.

TUESDAY, December 22.

NATHANIEL SMITH, from Connecticut, appeared, was qualified, and took his seat in the House.

Among the petitions presented to-day was one from Nathaniel Appleton, Loan-office Commissioner for the State of Massachusetts; which petition was referred to a Committee of five.

Mr. SEDGWICK moved, that this committee be directed to report whether any, and if any, what additional compensation ought to be allowed to the Commissioners of Loans and their clerks, for 1796.

The high price of living was pleaded in favor of

the motion. In opposition, it was mentioned, that the States can get men to fill their most important offices, reputably, for sums which Federal officers, in less responsible and easier stations receive. This difference creates invidious distinctions, which might be increased, if the motion should prevail. The motion was lost.

A report was then read from the Committee of Claims, on a variety of petitions.

On motion, from Mr. TRACY, the first of these petitions was read a second time. The petitioner was Colonel Benjamin Titcomb. By a law of last session, an officer cannot be entitled to a future salary, till he shall have returned the commutation formerly received. Mr. Titcomb had sold his commutation, and he could not return it.

The report of the Committee of Claims was, that the prayer of the petition could not be granted, but the petitioner have leave to withdraw it.

Mr. STERBURN moved that the report should lie on the table for the present. He had heard of the petitioner's case, that it was an extremely hard one, and that he was in every way, a worthy and deserving man. Mr. S., the motion not being in order, varied it, and moved that the report should lie on the table till Monday.

Mr. TRACY said, that when the report came to be taken up, he hoped it would be on the principle which had actuated the committee. He, as well as the other members, was fully impressed with a sense of the merits of the petitioner, and if it was possible to devise a mode of granting him relief without contravening the act, it should be done; but the committee had thought themselves bound by the former act. The report lies on the table till Monday.

Mr. HARRISON laid the following motion on the table.

"That so much of the report of the Secretary of State of the 13th of June, 1790, and of the Message of the President of the United States of the 8th of January last, as relates to Weights and Measures, be referred to a committee to examine and report to the House."

Mr. VENABLE moved that the Committee of Elections should have power to send for persons, papers and records, as former committees had done.

WEDNESDAY, December 23.

Mr. GOODHUE moved that a new member should be added to the committee appointed to bring in a bill respecting compensation to members of both Houses of Congress, and their officers, after the 3d of March next. The cause of this motion was, that Mr. EARLE, one of their number, was indisposed.

Mr. GILES recommended that a member should be added without laying aside Mr. EARLE, so that in case of his recovery, he might still afford his services to the committee. Agreed to.

Divers petitions of sundry citizens and inhabitants of the State of Virginia, whose names are thereunto subscribed, were presented to the House and read, praying that the Representatives of the

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people, in Congress assembled, will, in their wisdom, adopt such measures, touching the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain, lately negotiated by authority of the PRESIDENT of the UNITED STATES, and conditionally ratified by the Senate, as shall most effectually secure, free from encroachment, the Constitutional delegated powers of Congress, and the chartered rights of the people, and preserve to our country an uninterrupted continuance of the blessings of peace.

Also, a memorial of sundry citizens of the State of New York, whose names are thereunto subscribed, praying to be indemnified by the Government of the United States, for the property which has been unjustly taken from them by the armed vessels of the British, when in the regular pursuit of their commerce.

Ordered, That the said petitions and memorial be committed to the Committee of the Whole House on the state of the Union.

The House then went into a Committee of the Whole, on the report of the Committee of Claims.

DANIEL GOODWIN.

The report on the petition of Daniel Goodwin was taken up and read. It recommended that, in opposition to the act of limitation, the Secretary of the Treasury should be appointed to settle the debt, agreeably to the desire of the petitioner.

Mr. SWIFT wished to know the motives for this distinction in favor of Mr. Goodwin.

Mr. TRACY, as Chairman of the Committee of Claims, rose to give this explanation. The substance of the case was shortly this: During the late war, Mr. Thomas Cushing, a gentleman in public service, had received orders for building, at Boston, a seventy-four gun ship. On this occasion, he occupied a wharf and some buildings belonging to the late Mr. Benjamin Goodwin, father to the petitioner. The sum due by him, as compensation, had been determined by arbitration. Both Mr. Cushing and Mr. Goodwin died, some years after; and the award and other papers, which were in the custody of the former gentleman, were mislaid; and could not be found, till after the act of limitation took place. The Committee considered this circumstance as forming an excuse for the omission of presenting the claim within the time prescribed by law. They had no doubt that the debt was, in itself, just and fair; for, on examination, they found that Mr. Cushing had not received, at the settlement of his official accounts, any money on that head from the Treasury of the United States. The amount really due was likewise ascertained by the award. Mr. TRACY stated that this report was not a favorite with the Committee of Claims. They wished for the direction of the House, to serve them as a rule in similar cases, to which they would pay the strictest regard. The Committee had thought that it was by an act of Providence that Mr. Goodwin had been prevented from lodging his claim, not by any negligence of his own. Mr. T. then went into a long statement of the measures taken by Government to satisfy its creditors. From this detail, he

inferred the necessity for a statute of limitations. Government had done everything possible to warn its creditors. It had almost gone to the highways and hedges to compel them to come in. There was great pleasure and honor in looking back upon such conduct. One cloud only hung over the transaction. This was the necessity for paying with certificates, which had frequently been resold, at a very low rate to the great loss of the real creditor. It was an object of regret, but could not possibly be helped. The Committee of Claims had, in general, been very cautious of admitting exceptions to the statute of limitations. In this instance, they had not thought themselves authorized positively to reject a demand that was unquestionably just in itself, but had left the matter to the decision of the House.

Mr. CHRISTIE was opposed to the report. He had at first thought the act of limitation an unjust one; but when one of this committee, last winter, he was convinced of the necessity for something of the kind. There had been negligence in some quarter about this demand, for it lay asleep six years and eight months. He would have no partial repeal of the statute.

Mr. SWIFT saw no act of God which had intervened to prevent the petitioner from prosecuting the claim within the legal time. Thousands of other cases, just as equitable, might be admitted on the same ground as the present one. It would be endless to open such a door. He hoped that the committee would not agree to the report, because shoals of demands would arise, of which it was impossible, from the distance of time, to prove whether they were just or not. To enforce the statute of limitation might seem rigorous upon individuals, but it was a real act of equity to the public. There were reasons to believe that many thousands, if not millions of dollars had been paid for dishonest demands, and on fictitious evidence. The House might sit all the year round, if they took up such a principle, and yet never get through.

Mr. GILBERT was opposed to the resolution, as reported by the committee. He said that the claim of the petitioner was either barred or not barred by the act of limitation; if it was not barred by such limitation, there needed no such Legislative interposition; if it were barred by the act of limitation, he could not agree to the resolve, because he could never consent to a partial repeal or suspension of that act; he doubted of the justice or policy of repealing the act of limitation partially, and much more of repealing it generally. The report of the committee, he said, shows that the claim of the petitioner is barred by the act of limitation, and therefore he could not consent to the resolution proposed.

Mr. B. BOURNE was satisfied to stand by the law in general; but urged that there might be reasonable exceptions, of which the present formed one. He denied that there had been any negligence on the side of the petitioner, and entered into an explanation to demonstrate that there had been none, and where there was none, the Government were in justice bound to pay.

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Mr. DEARBORN showed the unfairness of debaring a person from payment of a debt admitted to be due, because, by an accident which he could not help, his papers had been for some time mislaid. He insisted that no voluntary delay had taken place on the part of Mr. Goodwin, and that there ought to be a distinction between those who were negligent and those who were not so. He observed that, for a long time, there had been very little encouragement, indeed, to make any demands on the American Treasury. He put the case of a private person, who is unable to pay his debts; few people would choose to be at the expense of prosecuting him, merely for the sake of ascertaining the amount of a claim from which nothing can be hoped for. In the progress of human affairs, he improves in his circumstances, and then his creditors are entitled to state their demands. Something like this happened to the United States, from about 1779 till 1789. The prospect of a public creditor was unpromising, and he would not undertake a journey of some hundreds of miles to present a claim apparently worth little or nothing. Matters have since altered for the better, and now it is but fair that those who want money should come forward and claim it.

Mr. HILLHOUSE was decidedly against the report. The reasons given by the member who spoke last, might apply to many other petitions as well as that on the table. The lodging of a claim could not have been either troublesome or expensive. There was no necessity for a journey of some hundred miles, for it might have been sent by post. He was convinced of negligence on the part of Goodwin. Why did he not lodge his claim as directed by the statute? It was said that he had applied personally to the public officer for payment; of this application, there was no proof. It was plead, that this was a strong case. If we agree on that account, there will soon be another so closely resembling the former, that it will be hard to point out the difference. Then we shall have a third, and so on, till the whole statute is in fact repealed. It would be much better to repeal the law at once. He had voted against allowing some claims, which he would otherwise have supported, but that the precedent would have had a general and dangerous operation. He was for adhering rigidly to the law.

Mr. DUVAL insisted that there was no neglect on the side of the petitioner. He regarded the people of the United States to be as much obliged to pay this debt, as any one against them. The vouchers had been left in the hands of the public officers, so that the blame did not attach to the private party.

On motion by Mr. MALBONE, the petition was read.

Mr. SWIFT then contended that proper application had not been made by Goodwin; no case could more justly come within the statute.

Mr. LYMAN rose against the clause.

Mr. GALLATIN rose to inquire if Mr. Cushing, as Continental Agent, was the proper officer to set-

tle Mr. Goodwin's account. If he was so, Mr. G. would not consider the claim as bound by the act of limitation.

Mr. SEDGWICK.—Unless we adhere to the statute of limitation, the derangement will be endless. He was convinced that, to pay this demand, we must get over the statute. He could look on the award as nothing more than evidence of the amount of the debt. It should have been presented in proper time to the officer of the Treasury. It was not; and the creditor, in consequence of his neglect, is now precluded from doing so.

Mr. HILLHOUSE thought that there never was, nor could be, a clearer case.

Mr. VENABLE warned the Committee of the danger of granting one claim which could not fail of producing multitudes.

On dividing, the ayes in favor of the report were only twenty-nine. It was therefore lost.

The Committee then rose. The Chairman reported, and the House agreed to the report.

An address was then presented and read from certain merchants and underwriters in New York, who complained heavily of British depredations, and entreated the interference and protection of Congress. It was, on motion, referred to the Committee of the Whole on the state of the Union.

THURSDAY, December 24.

CHRISTOPHER GREENUP, from Kentucky, appeared, was qualified, and took his seat.

Mr. SEDGWICK laid on the table a resolution that, when the House adjourn this day, the PRESIDENT of the Senate, and the SPEAKER of the House of Representatives, be authorized to adjourn both Houses, respectively, till Monday next.

Mr. GILES recommended that the House, without this formality, should at once adjourn themselves from Thursday till Monday. They were authorized to do so by the Constitution.

Mr. SEDGWICK preferred the idea of Mr. GILES, for his own opinion, but as some very respectable gentlemen entertained scruples on the point, he was willing to obviate them by his own resolution, as above stated.

As to the present adjournment, there was not, (Mr. GILES thought) much importance attached to the mode of it; but as forming a precedent against the privileges of the House in future, it might be of consequence.

Mr. TRACY had been disposed for simply adjourning till Monday.

Mr. W. SMITH was of the same opinion.

The resolution of Mr. SEDGWICK was then negatived, and another for adjourning till Monday, when the House rises this day, was proposed by Mr. GOODHUE, and adopted.

Mr. HILLHOUSE then moved that, for one week to come, twelve o'clock shall be the hour of meeting. The reason for this alteration was, that the numerous committees into which the House is divided, may have leisure to prepare their reports.

It was then moved, and agreed to refer to the Committee of Ways and Means, the estimates of

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Lands in Northwestern Territory—Robert Randall.

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appropriations for the support of Government, for the year 1796.

It was also moved that so much of the report of the Secretary of State, of the 13th July, 1790, and the Message of the President, of the 8th of January last, as relates to Weights and Measures, be referred to a select committee; and Mr. HARRISON, Mr. SHERBURNE, and Mr. MACLAY, were appointed.

After receiving and disposing of a number of petitions—

The report of the Attorney General, on the fees in the Courts of the United States, was committed to a committee of three members, to prepare and bring in a bill.

On a motion by Mr. GILES, one member was added to the Committee of Ways and Means, and another to the Committee on organizing the Militia.

MONDAY, December 28.

ANDREW GREGG, from Pennsylvania, appeared, produced his credentials, was qualified, and took his seat.

Mr. VENABLE, from the Standing Committee of Elections, reported that the committee had examined several other certificates and credentials of the members returned to serve in this House, and had agreed upon a report, which he delivered in at the Clerk's table, where the same was read, and ordered to lie on the table.

Mr. VENABLE, from the Committee of Elections, laid on the table a resolution, that the committee should be empowered to take the depositions of witnesses who cannot personally attend the committee, and that they should be authorized to point out the mode of taking such evidence. The resolution passed.

Mr. W. SMITH, from the Committee of Ways and Means, presented a resolution, that an appropriation of moneys be made, for the service of the Civil List, during the year 1795. It was referred to a Committee of the Whole House to-morrow.

LANDS IN NORTHWESTERN TERRITORY.

A petition from certain persons requesting lands in the Northwestern Territory, on which they stated that they had already made various improvements, was presented by Mr. FOSTER, read, and referred to the Committee of Claims.

The Clerk then proceeded with reading the report of that Committee.

The names of the petitioners are, Joseph Cateau, Francis Proctor, Noble Benedict, James Clarke, John Strawbridge, William Morris, and others, legal representatives of Thomas Morris, Jacob Shoemaker, Thomas Boyd, Andrew Johnson, Jesse Coles, Jane Godfrey, Henry Shade, Isaac Sherman, John Hollinshead, William McKie, Tristram Coffin, and John Turner. The report was, in every instance, unfavorable. The House took up the report and agreed to it, with the exception of the cases of William Morris and John Turner, which were postponed to Monday next.

When the petition of Noble Benedict, James Clarke, and John Strawbridge, was read, which prayed compensation for their arrears of pay in the Continental Army, and which had been paid in depreciated paper, a motion was made for granting leave to the petitioners to withdraw it.

Mr. GILES did not wish to bring the House into difficulties, but he wished, for the sake of information, to defer considering the case for a week, to which the House consented.

ROBERT RANDALL—CASE OF BRIBERY.

Mr. SMITH, of South Carolina, requested the attention of the House, for a moment, to a subject of a very delicate nature. He understood that a memorial was, this morning, to be presented from some individuals, applying for a grant of a large tract of Western territory, and as the House had referred all such applications to the committee for bringing in the Land Office bill, of which he was Chairman; and as it was probable that the memorial, about to be presented, would be disposed of in the same manner, he conceived it a duty incumbent upon him to disclose to the House, at this time, some circumstances which had come to his knowledge. Mr. SMITH then said that, on Tuesday evening last, a person of the name of Randall called on him, requesting an hour of confidential conversation. In the interview which took place, Randall made a communication to the following effect: He intended to present a memorial, on the Monday following, to Congress, for a grant of all the Western lands lying between Lakes Michigan, Erie, and Huron, to the amount of about twenty millions of acres. He, and his associates, some of whom were Canada merchants, who had great influence over the Indians, proposed to form a company, and to undertake the extinction of the Indian title, provided Congress would cede to them the fee simple of the land. The property would be divided into forty shares, twenty-four of which should be reserved for such members of Congress as might favor the scheme, and might be inclined to come into it, after the adjournment of Congress, on the same terms as the original associators. Randall himself had the disposal of twelve shares, for members from the Southern States, and a colleague of his, a like number for those of the Eastern States. A certain number of shares were to be the property of those Canada merchants, who had an unbounded influence over the Indians occupying those lands, and who would, if this plan succeeded, pacify those Indians, who were the most hostile to the United States; that Gen. Wayne's treaty was a mere delusion, and that, without the co-operation of those influential persons, the United States would never have peace in that quarter. Mr. SMITH said that he communicated this overture, the next morning, to Mr. MURRAY, one of the members from Maryland, requesting his advice how to proceed on so delicate an occasion; that Mr. MURRAY recommended a disclosure to Mr. HENRY, of the Senate, and that, on a consultation with those gentlemen, it was resolved that it was Mr. SMITH's duty to make an immediate com-

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munication of the matter to the PRESIDENT, which was accordingly done.

Mr. MURRAY rose next. He had received an application of the same nature, but having already heard of the proposal, "I was," said he, "in a state of preparation, and my virtue had not such a shock to encounter, as that of the gentleman last up." Mr. M. corroborated what Mr. SMITH had said as to the communication of this affair to himself. He added, that he had advised Mr. SMITH to give Randall another meeting, for the purpose of developing his schemes and expectations more fully. Mr. M. said that Mr. SMITH informed him on Wednesday morning; next day, in the morning, he informed Mr. HENRY, of the Senate. Mr. SMITH, on that day, informed the PRESIDENT. On that day, (Thursday,) Mr. Randall was introduced to him, and asked an interview at his lodging; he gave him an appointment, at five in the afternoon. Mr. HENRY and he were together when Randall came in. Randall talked about the policy of extinguishing the Indian title to the Peninsula formed by Lakes Erie, Huron, and Michigan, containing about eighteen or twenty millions of acres of very good land; and talked in terms that he might have employed from a pulpit. He did not make any corrupt overtures, till Mr. M. had carried him into his own apartment. There Randall opened his proposals, as had been before mentioned by Mr. SMITH, observing that if Congress would sell this land to him and his company, they intended to divide it into forty or forty-one shares. Twenty-four shares were to be appropriated to such members of Congress as chose to support the memorial, which would be presented on Monday. The members were to have their shares upon the same terms on which his company should obtain the land. The company would give five hundred thousand, or perhaps a million of dollars; but on Mr. M.'s apparent acquiescence in his views, he said that the shares would be given to the members who advocated the measure, if they pleased to accept them, after they returned to their homes. Mr. M. started a difficulty about the embarrassment of land speculations, for which he, personally, had no genius; and then Randall instantly turned out the cat, and told him that if he did not choose the share of land, he should have cash in hand for his share. Mr. SMITH and Mr. MURRAY had resolved to disclose this to the House lest some innocent member might offer a memorial and become liable to suspicion. Randall had hinted that larger proportions would be assigned to the more active members, and lesser ones for the small fish.

The SPEAKER then rose, and expressed a wish that some gentleman would move for an order to apprehend Randall. Upon this Mr. SMITH again rose, and said that a warrant to this effect had yesterday been issued by the PRESIDENT, and to support which Mr. S. had made oath before a magistrate to the particulars above mentioned. He hoped that by this time the person was taken.

Mr. GILES next rose, and observed that an application from the same Mr. Randall had been made to himself. Besides a repetition of some par-

ticulars already stated, he told Mr. G. that he had already secured thirty or forty members of this House, but he wanted to secure three other members, if Mr. G. recollected right. He added, that he had already secured a majority of the Senate. When this proposal was first made, which Mr. G. thought was about ten days ago, a member from New York [Mr. LIVINGSTON] was present. Randall had even gone so far as to say, that a written agreement was drawn out, and subscribed by a number of Eastern members, and he wished Mr. G. to extend another obligation of the same kind for the Southern members; the purport of which paper was understood to be, that the members who voted in support of the disposal of the lands, were to be secured in a stipulated share of them, without having their names mentioned in the deed. Mr. G. was solicitous to learn the names of the members who had already entered into the negotiation, but Randall assured him, that, from motives of delicacy, he durst not communicate any of the names. Mr. G. then desired a sight of the agreement, that he might be able to comprehend its meaning, before he should attempt to draw any similar paper. The man called a second time, and, as Mr. G. conceived, about four days ago, but had never produced the deed or any draft of it. Mr. G. had already communicated the proposal to several members, and, in particular, to the SPEAKER.

The SPEAKER [Mr. DAYTON] mentioned, that Mr. GILES had, some time ago, informed him of the proposal. He replied, that if an opportunity offered, he would take care to select a committee consisting of members sure to detect the guilty, if any such could exist; adding that he expected the House to believe that he would not have used such words, but on so extraordinary an occasion.

Mr. CHRISTIE said, that he was the person who had introduced Randall to Mr. SMITH and Mr. MURRAY. He had long known him, as a respectable man. Randall had mentioned to Mr. C., in general, that it was a landed speculation, and hinted that he, Mr. C., might accept of a share. In reply, Mr. C. had assured him that he could not possibly have a concern in any such transaction. Randall had not, to Mr. C., insinuated that any undue advantage would accrue to members supporting the intended purchase.

Mr. BUCK, a member from Vermont, mentioned that a person of the name of Whitney, who appears to have been an associate with Randall, had called upon him in the country with a proposal of this kind.

Mr. MADISON said, that the person referred to had also called upon him, and told him of his having waited upon many members, and, among the rest, upon the SPEAKER. Mr. MADISON said, that the conversation was rather short, owing, perhaps, to the coldness with which the advances of Mr. Randall were received. Mr. MADISON had already learned, through his friend from Virginia, [Mr. GILES,] the state in which the business was. He did not wish to alarm the person by too much abruptness, and, at the same time, he did not wish to give himself any unnecessary trouble about it,

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Case of Randall and Whitney—Indian Trading Houses, &c.

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as he understood that it would be properly managed without his interference.

Mr. LYMAN mentioned that Whitney had called on him, but spoke only of the plan generally. He was to have seen him again, but had not.

Mr. HEISTER wished to know whether any gentleman to whom Whitney had made proposals had made a communication to the Executive about it.

A resolution was then passed for directing the Sergeant-at-Arms, by an order from the SPEAKER, to apprehend Whitney.

Mr. HARPER moved that the warrant should include Randall. It was objected, that he was already in custody of the City Marshal.

Mr. VENABLE doubted whether an order from the SPEAKER of the House would have the effect to recover him from the custody of that magistrate. He likewise wished that a more particular description of Whitney could be given to the Sergeant-at-Arms. In the course of some conversation, it appeared that the House were not acquainted with the Christian names either of Randall or Whitney.

Mr. SWANWICK was of opinion that Randall should also be included in the warrant, as he might tell something which would cast light on the share of Whitney in this transaction.

Some debate ensued on the privileges of the House, and how far they are warranted to apprehend Randall.

Mr. W. SMITH said, that there was yet no official notice of his being apprehended; he therefore wished the warrant to run against him. If the Sergeant-at-Arms returned for an answer that he was already in custody, then the House might discuss the propriety of interfering with the office of the civil magistrate.

Mr. SEDGWICK had been informed by one of the Doorkeepers of his having seen Randall in custody. He implicitly believed the intelligence to be true.

Mr. MADISON said, that since Randall was already in custody, he did not perceive the necessity for issuing the writ against him instantly. It was a new case; and he would give his vote with more satisfaction if he was permitted to wait till tomorrow.

Mr. LIVINGSTON considered the offence as bailable. By this means Randall might in the interim escape. This would cast a serious reflection on the House. He advised to proceed immediately. The resolution to this effect was put, and carried.

TUESDAY, December 29.

CASE OF RANDALL AND WHITNEY.

A return was made by Mr. JOSEPH WHEATON, Sergeant-at-Arms to the House of Representatives. Mr. WHEATON stated that, agreeably to the order from the SPEAKER, he had taken into custody the bodies of Robert Randall and Charles Whitney, and kept them at the disposal of the House.

Mr. W. SMITH moved, that a Committee of Privileges, consisting of seven members, should be appointed, and instructed to consider and report with respect to the proper mode of proceeding in this case as to Robert Randall, and that the said committee shall have leave to sit immediately.

It was likewise moved that the name of Charles Whitney should be comprehended in the resolution, because he also was taken into custody. The resolution, as amended, was agreed to. Mr. BALDWIN, Mr. W. SMITH, Mr. MURRAY, Mr. COIT, Mr. GILES, Mr. LIVINGSTON, and Mr. GOODHUE, were named for a committee.

INDIAN TRADING HOUSES.

Mr. PARKER made a report from the committee appointed to prepare and bring in a bill for establishing trading houses with the Indians. Mr. PARKER moved that it should be referred to a Committee of the Whole House, and recommended an early day, because he believed the present provisions expire about the end of this year. The bill was referred to a Committee of the Whole House on Thursday next.

SURVEY OF THE SOUTHERN COAST.

The report of the special committee on the petition of Parker, Hopkins, and Meers, was next taken up and read. Mr. HARRISON moved that it should be referred to a Committee of the Whole House on Thursday next.

Mr. BOURNE observed, that it would be proper to have the report printed for the use of members; and that consequently Thursday would be too early a day. On this, the consideration of the report was postponed till Friday.

THE TREATY WITH GREAT BRITAIN.

A letter was then delivered to the SPEAKER, enclosing a petition subscribed by two hundred and forty inhabitants of Bennington, in the State of Vermont, which he was requested by the letter to communicate to the House. The subject of this petition was the late Treaty with Britain, which the subscribers censure in severe terms. They state that they now look up exclusively to the House of Representatives, as the guardians of the public peace, welfare, and prosperity. They considered the House as more immediately concerned than any other branch of Government in the interest of the United States. The petitioners were apprehensive of being involved in European politics, and in a contest with the magnanimous Republic of France. They enumerated many articles of the Treaty, which they regarded as objectionable. Among others, they specified the arbitrary definition of piracy, and the interference, by various clauses of the Treaty, with the Legislative power of Congress; an interference which they dreaded, as tending to overturn and effect a total change in our present happy Constitution.

Mr. COOPER wished to have the names of the subscribers read over by the Clerk, that he might know whether every one of them could subscribe his name, and whether some of them signed only

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by marks. The petition was referred to the Committee of the Whole House on the state of the Union.

Mr. VENABLE, immediately after, presented two other petitions on the same topic, and after the same tenor, from certain citizens of the State of Virginia. They were referred to the same committee.

EXCISE DUTIES ON SNUFF.

Mr. MUHLENBERG presented a petition from Mr. Stimble, a snuff maker, in or near Philadelphia. He stated the oppressive and destructive consequences of the excise upon snuff. Besides which, the late heavy rains, in the end of last Summer, had swept away his mill, and a large quantity of manufactured snuff. His mill, for which he paid a large annual sum (\$560) of excise, had stood idle for a considerable time, and the petition pointed out, in strong terms, the hardship of laying an excise upon a heap of ruins. Referred to the Committee on Commerce and Manufactures.

APPROPRIATIONS FOR 1796.

The House, on motion of Mr. SEDGWICK, then went into a Committee of the Whole, on the report from the Committee of Ways and Means. The resolution reported was as follows:

Resolved, That an appropriation of moneys should be made to defray the expenses of the Civil List for the year 1796."

This resolution being read, Mr. SEDGWICK moved that the Committee should consent to it, and rise; which they did. The Committee rose, and reported progress. The House agreed, and the report was recommitted to the Committee of Ways and Means, to prepare and bring in a bill to this effect.

The House then proceeded to consider the resolutions from the Committee on the state of the Union [*Vide*, Proceedings of Thursday, December 17.]

The resolution as to enforcing the existing operations for the discharge of the Public Debt was read, agreed to, and referred to the Committee of Ways and Means.

The resolution respecting the Mint was referred to a committee of three members.

It was then moved that the Committee of the Whole should be discharged from further consideration of the Letter from the Secretary of State, and the other communications by him formerly stated on this head, that they might be referred to the above committee. Both these motions were agreed to.

The resolution as to the Naval Department was then read, and referred to a committee of five members. On motion, by Mr. PARKER, the letter on this head, from the Secretary of War, and the papers that accompanied it, were referred to the same committee.

CASE OF RANDALL AND WHITNEY.

Mr. BALDWIN brought in a report from the Committee of Privileges. It was, in substance, that Robert Randall and Charles Whitney should be

brought to the bar of the House and interrogated by the SPEAKER, touching the information lodged against them, on written interrogatories, which, with the answers, were to be entered on the Journals of the House; and that then, every additional question proposed by members should be reduced to writing, and put, on motion, by the SPEAKER. Thereafter, if any further measures were thought necessary, that they be proceeded in by a committee, to be appointed for that purpose. The report was agreed to by the House.

Mr. HARPER next moved a resolution, that the two prisoners shall be brought to the bar of the House to-morrow at 12 o'clock; and, in the mean time that the Committee of Privileges be ordered to prepare interrogatories to be put to them. He feared that time would be lost, if the prisoners were, this day, brought before the House.

Mr. BLOUNT was against the delay, for which he stated several reasons. He insisted that, at least, all intermediate communication between the prisoners should be prevented.

Mr. SEDGWICK recommended avoiding precipitation. He thought it better to delay the examination till to-morrow.

Mr. W. SMITH said, that it was usual for matters touching privilege to be determined immediately. From what was already known, he believed that the SPEAKER was sufficiently informed to put the requisite queries. He wished Randall and Whitney to be directly brought to the bar.

Mr. HAVENS had been applied to by Randall. He did not mention this circumstance yesterday, because so many other gentlemen had spoken in that way, that he felt himself unwilling to encroach on the time of the House. He was ready to communicate the particulars when necessary. The proposals made to him were, in sum and substance, the same with those communicated yesterday.

Mr. HARPER argued strongly against being in haste. The culprits were fellow-citizens, and entitled to time. It was alleged as an usual practice, to decide instantly on questions of privilege. It might be so, and perhaps this custom was not the more commendable for that. He thought that there was scarcely time before to-morrow, to prepare the necessary interrogatories. He was for delaying till to-morrow, but would cheerfully acquiesce in the vote of the House.

Mr. SEDGWICK, in answer to the precedent urged by his friend from South Carolina, [Mr. Wm. SMITH,] observed, that the promptitude to decide questions of privilege arose, very likely, from the impulse of passion, every appearance of which ought to be avoided.

Mr. NICHOLAS understood the end of this affair to be, exculpating the members, and satisfying the public mind. He was for beginning the examination immediately, without giving the prisoners time to prepare answers.

Mr. HARPER withdrew his motion, to make room for one brought forward by Mr. BLOUNT, which was for examining the prisoners immediately. Mr. H. did not recede from his original opinion, but by taking the sense of the House on Mr. B.'s motion, he would be directed as to his own.

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The House agreed to bring in Randall immediately. In the mean time, a member observed that there was a material omission in the Journal of yesterday, as read this day by the Clerk. It had stated the attempt to corrupt members, but not that Randall had pretended thirty or forty of them to be gained already. This the gentleman thought the most criminal part of the charge. He therefore moved for an amendment of the Journal.

This motion produced a long and desultory debate.

The SPEAKER had never known an instance of this sort, after the Journal was, as in the present case, read over and already agreed to. He did not think that it could be done at all, unless the House were unanimous in it.

Mr. THATCHER said, that, as there was not any rule on the subject, he would be for adhering to the old practice, and not be for altering the Journals.

Several gentlemen now spoke. Mr. JEREMIAH SMITH saw no necessity for an amendment in the Journals at all. The additions proposed may be entered on the Journals of this day, and make a part of it; and, if it is needful, additions may be made in this way, for ten days to come. It was not like an indictment, which must be found by the jury all at one time.

Randall was now brought in by Mr. WHEATON, Sergeant-at-Arms, and the City Marshal. That part of the Journals which refers to his conduct was read to him.

The SPEAKER then interrogated the prisoner, whether these charges were true or false? Randall replied that he was not prepared to answer. He hoped that time would be given him. The SPEAKER asked what time he wanted? He could not positively tell; perhaps till the day after to-morrow.

Mr. W. SMITH was disposed to give him the time required.

Mr. BLOUNT said, that he felt for his own dignity as a member of the House, and for the dignity of the House. To suffer the prisoner to go away from the bar till he had said guilty, or not guilty, when thirty or forty members are positively charged with such conduct, and we suffer the culprit to withdraw, without obliging him to explain, will excite public suspicion that guilt is here.

Randall was then ordered to withdraw, till the discussion should be over.

Mr. RUTHERFORD was for making him say yes or no, directly, as to the guilt. If he wants to have time for pleading any thing in mitigation of his punishment, that is a quite different affair. But the honor of the House was concerned in making him give an immediate answer to the queries now put.

Mr. HILLHOUSE was for bringing Randall forward directly. He ought not to be allowed time to think of an answer.

Mr. HARPER felt as much as any man for the dignity of the House, but this would not induce him to proceed in a hurry. Mr. H. enlarged on the danger of indulging passion on this subject. It would be wrong to force the prisoner to answer

unprepared. What if he refuses to answer at all? Confession amounts, in this case, to conviction. He was for granting indulgence.

Mr. VENABLE felt as much as any man for the dignity of the House. At the same time, he felt himself above suspicion, and the House above it. He would not wish to trample on the rights of an individual. He saw no danger that could arise to the House from a short delay. He referred to what Mr. HARPER had said about the hardship of making any man convict himself.

Mr. CLAIBORNE was also against hurrying the prisoner. He recommended that coolness and moderation should distinguish the proceedings of the House.

The question was then put, whether the prisoner should be obliged to answer immediately. Ayes 42, noes 48.

It was then moved, by Mr. W. SMITH, that he should be allowed till twelve o'clock, to-morrow.

Mr. BLOUNT proposed the yeas and nays on the latter question. A member observed that they should rather have been put on the one immediately preceding. The motion was supported only by four or five members. A fifth part of the House are requisite for calling the yeas and nays.

Mr. BLOUNT then laid on the table a long resolution. It was in substance, that before Randall was recommitted, he should be interrogated as to who where the thirty or forty members that had been gained to the scheme.

Mr. HARPER thought it extraordinary to bring a culprit before the House for contempt of it, and then encourage him to criminate members. He should ever protest against persons being brought to the bar for that purpose. He therefore moved to strike out from the resolution proposed by Mr. BLOUNT, the words: "And if you did, who are 'the members whom you considered as so secured; and what where your reason for thinking them so 'secured?'" This was the last clause of an interrogatory which Mr. BLOUNT proposed putting to Randall.

Mr. BLOUNT declared that he had never meant bringing an accuser to the bar, or propounding a question that should bring forth an accusation.

Mr. HARPER replied.

Mr. BLOUNT then modified his resolution, by striking out the exceptionable words; to which Mr. HARPER then agreed.

Mr. MURRAY called upon gentlemen by their sensibility to personal dignity, and the character of the House, to arrest the motion. Its tendency certainly was to place the honor of the House, or of a very great part of it, in the power of a man of whose profligacy of principle there could now be no doubt. Will you, he observed, permit, nay, invite him, whom you arraign at the bar of this House, to be a public accuser? Will you adopt a charge against him, which is in its nature an imputation that, however lightly and wickedly made, will implicate perhaps innocent men? These men, to rescue their own reputations, will be obliged to risk their characters, on the weight of their veracity, by denying this man's charge in the face of a world but too prone to suspect. By this motion,

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Randall's assertion to the gentleman from Virginia [Mr. GILES,] the only member who has mentioned it, is to be alleged against Randall as an offence. That Randall said to the gentleman that there were thirty or forty members secured, he had no doubt; but he believed the fact to be that Randall was both deceived himself and attempted to deceive the gentleman. Why, said Mr. M., the fellow told me that those thirty members were secured. Mr. M. had not thought proper to state that circumstance, because he did not so much consider it as a fact material to the detection of Randall's guilt, as it was one which, if mentioned, might possibly afford to malice an opportunity of affixing a stigma to any thirty or forty names at which personal enmity might point. No public good could result from such a disclosure; for the assertion of such a man as Randall could not, among men of honor, be deemed a sufficient ground of suspicion; and yet the malice of the world, or the rancor of personal enemies, might attach suspicion and infamy to almost the whole House, from the indefiniteness of the charge. When Randall informed him, on Thursday night, that there were thirty members who would support his measures, he had felt in the very conduct which he then was himself pursuing to detect Randall, to arrest his scheme, a principle of candor towards others, which taught him that other gentlemen to whom Randall had communicated his scheme confidentially, were probably determined as honestly as himself to crush the infamous plot against the honor of the House. He knew that he who would be wicked enough to attempt seduction, might be weak enough to use this intelligence artfully, for the purpose of leading him the more readily to accept terms of infamy; because the object was painted as easily attainable, and that Randall might wish to diminish all qualms, by exhibiting a pretended group of accomplices whose company would at least diminish the appearance of singularity. I entertained, said Mr. M., no suspicion of any man—I knew Randall to be a corrupt man from his offers to myself—I therefore placed all his intelligence to the score of flimsy art: I knew that such a man was not to be fully believed, where his interest was to magnify his success. I drew favorable auspices with respect to the corps to which I belong, from another piece of intelligence of his, which was, that he communicated to some members, one of whom he had named, and whom I knew to be a man of honor, in what he called the *general way*. This general way was a display of the sounder part of his scheme merely, and not the corrupt; consisting in developing the advantages which would result to the Union in the disposal of their lands, provided the harmony of the Indians could be secured. In this view of his plan he gave the subject an attitude far from unimposing; and I conceived that, as in proportion to the numbers engaged confidentially he must know that the hazard of detection increased, he would not communicate the corrupt view as long as he found the more honest part of the policy might appear to strike any gen-

tleman as a measure useful to his country; I therefore did not believe Randall, in the sense he evidently intended; therefore, sir, I did not feel myself at liberty to mention the assertion which I conceived to be unavailing as a circumstance necessary to the example I wished to make, but which, if communicated, I thought might cast a stain, by the mystery that enveloped it, upon a body whose character ought to be held sacred to the confidence of the country. My duty was to bring Randall's attempt to corrupt unequivocally into light, not by repeating all the arts which he excited to corrupt; nor by exhibiting them in a way that might wound the feelings of men of honor, who, if charged even personally by Randall, would have no refuge from odium but in their characters and counter-assertion: this, though always conclusive with those who personally know them, is not a protection to minds of sensibility against the stings of calumny. The voice of fame is not composed from the voice of men of honor.

It was, he said, in the spirit of such reflections, that he and the gentleman with whom he had concerted the mode and time of disclosure [Mr. W. SMITH] had determined to trust rather to the as yet unstained honor of the House, than to the loose declarations of Randall; and therefore had resolved on Friday morning to make the disclosure before, that some gentleman, innocent of the corrupt scheme, and acquainted with the sounder part of the plan only, might have cause to blush at having presented a memorial which it would be their duty to defeat and to cover with infamy. If this charge is exhibited against Randall he will confess or deny it; if he confesses it, and in the disposition that often accompanies detected guilt, should name particular gentlemen, though their counter-assertion would completely, in his own mind, outweigh the charge of a corrupt and profligate accuser like Randall, yet would every man of delicacy have cause to regret that merely for the purpose of adding to the charges against a man proved to be wicked, a stain had glanced from him upon a name innocent and honorable. Let gentlemen act with magnanimity upon this occasion. Let them resist a motion, which, however purely conceived, may eventually wound honest fame, without detecting guilt. Mr. M. solemnly believed that Randall's assertion was either false totally, or true only as it respected those who had listened to him, for the purpose of making an example, or those to whom he had spoken in what he called the general way. If Randall denied this charge, it would rest on the assertion of the gentleman from Virginia, but could not affect members farther, than as the measure of inquiry seemed to imply suspicion. He and the gentleman from South Carolina had both acted upon the presumption of innocence in members, and they had resolved on the timely disclosure yesterday, lest even one member, however innocent, might be placed in a painful situation by presenting the memorial. If Randall is charged with this as an offence, he verily believed the House betrayed its own honor to the malice of the world; he would therefore vote decidedly against it.

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Mr. M., in the course of his speech, added several other observations. He did not doubt that in every district on the Continent thirty favorites would be pointed out, whom the people in that quarter, or at least some among them, would be disposed to consign to infamy, and perhaps there was not one district in the Union where the same thirty members would be named. It would be said, "Sir, they are not named, but I know who are the men." So rapid were the communications of the press, so keen the appetite for scandal, that when once the story was circulated, it might be impossible ever to get rid of it.

Mr. GILES replied. He was in favor of the motion of Mr. BLOUNT. He said it was evident, from the way in which this whole communication had been brought forward, that there had been no previous correspondence between Mr. MURRAY and himself. They had felt differently. Mr. GILES had informed the SPEAKER of the House. Mr. MURRAY and his friend [Mr. W. SMITH] had communicated the affair to the PRESIDENT—a measure of which, as it struck Mr. GILES, he did not distinctly perceive the propriety. Mr. GILES had considered it as best to wait in silence, till the petition of Randall should come forward. Mr. MURRAY had suggested a variety of delicate motives for breaking the matter to the House, lest the petition should come forward, and hurt the feelings of an innocent and unsuspecting member. Mr. GILES did not wish to diminish the credit fully due to the gentleman in this respect. He himself had felt somewhat differently. He had acted differently.

Mr. HILLHOUSE was convinced that there was not a gentleman in the House, whose character rested on so slender a foundation, as to be affected by any thing that this man could say. He felt no anxiety for the reputation of the House, for he knew that it was not in the smallest danger. The resolution went merely to make Randall confess that he had said so and so. It implied nothing to affect members. A man covered with infamy making such charges could not expect credit, or obtain it from anybody. Mr. HILLHOUSE was, for these reasons, in favor of the resolution for interrogating Randall.

The resolution was now read, as follows:

"Resolved, That it be made a charge against the said Robert Randall, that he declared to a member of this House, that a number consisting of not less than thirty members of this House, had engaged to support his memorial."

Randall was then brought to the bar. The resolution was read to him, and he was informed that he must answer it to-morrow, at 12 o'clock.

A motion for adjourning was then made. Ayes 26; so it was lost.

It was next moved and agreed, that Whitney should be brought to the bar. The SPEAKER then said, Is this the prisoner? Answered, yes. What is your name? Charles Whitney. What is your usual place of residence? Vermont. What are you? I was bred to the farming business. Do you know one Robert Randall? Yes. The Clerk

will read to you the charge that has occasioned your being brought here. The charge, as stated in the Journal of the House, was then read to the prisoner. He was next interrogated by the SPEAKER, as follows: Are you guilty, or not guilty? Not guilty. Are you ready to speak in your defence? I am ready to tell every thing. Are you prepared to do so just now? Yes. Whitney then stated that he was connected with Randall in a plan for the purchase of eighteen or twenty millions of acres of land, lying between the Lakes Erie, Huron, and Michigan. He had come to town on the design of presenting a petition to Congress, but had no knowledge of any improper kind of applications. Randall had several times called upon him at his lodgings, at the Green Tree, in North Fourth street. He considered the scheme to be of probable advantage, and a handsome thing to the United States as well as to the prisoner himself, who repeatedly observed that he would not have engaged in it, but with a view partly to his own interest. He had wished to engage influential characters in the business. He was then asked what associates he had. He answered, Colonel Pepune and Mr. Jones, of the State of Massachusetts; and Mr. Ebenezer Allen, of Vermont. He also, upon a query from the SPEAKER, mentioned the name of another person, which was not distinctly heard. He was asked if the partners meant to divide the land into forty shares. He answered forty-one; but this was only in speculation. They had only a rough idea of the extent of the land, which was inhabited by the Wyandotts, and was of a very good soil. The land was to be divided among the proprietors. The prisoner knew, in general, from Randall, that he called on Mr. SMITH, and other members; but was not privy to, nor suspected any unbecoming overtures. He was then asked the names of the associates at Detroit. He mentioned Mr. Erskine, Mr. Robertson, Mr. Innes, Mr. Pattison, and Mr. Erskine, junior. He said that some of them were Indian traders, to a considerable extent. He had called at Mr. BUCK's, of Vermont, (a member of the House,) as he was riding by his house. He knew him to be a gentleman of character, whose name would add credit to the business. He had told him that there were several other persons intending to be concerned, and that, if it was consistent with his situation as a member of Congress, he would be glad to have him engaged, but at the same time carefully noticed that this proposal was conditionally made, and only if it was proper. He was asked what Mr. Erskine was. He is called Judge Erskine, but whether he is now a Judge, or only was one in some other part of the country, at a former period, the prisoner cannot tell. You say that you came to Philadelphia about a month ago. Why were you so long in presenting your petition? He had a bad cold, and had been sick, and wanted to make a personal explanation to the members before bringing the affair before the House. Have you got any new associates in this city? None. Mr. LIVINGSTON then proposed a question, Whether any of the shares had been left unappropriated by your associates and you? An-

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answer: It was at his own option to dispose of shares as he pleased. He was asked if he could produce any written agreement between himself and his associates. He believed that he could, and that it would do him no harm to do so. It was at the Green Tree. But, as a matter of candor, he requested time to consider whether the production of it could hurt him or not. This ended the examination.

Mr. W. SMITH then made a motion, consisting of three points, that Whitney should be ordered to re-appear at the bar, at twelve o'clock, to-morrow; that he should be ordered to produce the bond; and that, till to-morrow, he should be remanded to the custody of the City Marshal. It was likewise recommended that, till to-morrow, the two prisoners be kept in separate apartments.

Mr. GOODHUE requested that Whitney might be ordered to withdraw; which was done. He then related that the prisoner had made an application to him at different times. Mr. GOODHUE told him that he knew very little of the Western country; he had always lived on the seacoast, and land jobbing was quite out of his line. Whitney did not make any corrupt proposals to him. He believed that it was because he was very averse to wasting time in speaking at all on the matter.

Mr. SEDGWICK said that, as no direct charge of corruption had been made against Whitney, he apprehended it would be improper to detain him as a prisoner. It might be considered as a wanton act of arbitrary power.

Mr. BUCK then rose, and said that he had not yesterday told the whole of what passed between him and Whitney. Mr. BUCK had received offers plain enough to be understood. He might either have land, or money in lieu of it.

Mr. SEDGWICK said, that he had now no opposition to the resolutions; which were carried.

Mr. HARPER then laid on the table a resolution relative to the duties on exports, which was read;

And the House then adjourned.

WEDNESDAY, December 30.

JOHN PAGE, from Virginia, appeared, was qualified, and took his seat.

CASE OF RANDALL AND WHITNEY.

Mr. W. SMITH moved an amendment of the Journal to this effect, that the said Charles Whitney had made overtures to Mr. BUCK, to this purpose, that he should have a share in the lands to be purchased, or in money.

Mr. NICHOLAS objected to the motion. The reading of the Journal was called for. It was read.

Mr. SEDGWICK said, that the original charge against the man was complete and full. He thought the amendment unnecessary.

A petition was then presented from Randall requesting that he might be indulged with a reasonable time to make his defence, and with counsel.

Mr. W. SMITH moved that the prayer of the petition should be granted, and that the further examination should be referred to a select committee.

Mr. HILLHOUSE had no objection to granting counsel. I am willing, said he, that every man shall make the best defence which he can. But bring him before us. Were I to decide on the criminality, I would wish to hear the evidence.

Mr. WILLIAMS observed, that as it had been said that a number of members were implicated in the business, he conceived that all further proceedings should be before the whole House. It was true, it might require more time; but the honor and dignity of the Legislature is concerned in giving the greatest publicity to their proceedings.

Mr. SWANWICK objected to a reference to a select committee. The attempt is the first of the kind that has ever been made against the members of the Legislature of the United States; and, therefore, our proceedings cannot be too public, and ought to be attended with the utmost solemnity.

Mr. BRADBURY proposed a division of the question, and that the sense of the House should be first taken on that part relative to allowing him counsel.

Mr. KITCHELL objected to allowing counsel; he stated the difficulties and delays which would be the result of allowing counsel. The consequences he feared would be, that an opening would be made for an imputation on the honor of the House. He thought the duty of the House was plain, and that they ought immediately to proceed to an examination of the prisoner.

Mr. LIVINGSTON objected to both parts of the motion in the present stage of the business. When the interrogatories are put, and the answers received, it will then be time to determine on the propriety of granting counsel. He was equally opposed to a reference to a select committee until a more complete examination of the business.

Mr. SMITH withdrew his motion, so far as it relates to a reference to a select committee.

Mr. BALDWIN said, that the motion for a reference to a select committee, if rejected, would be to counteract the report of the Committee of Privileges, which has already been adopted by the House. Mr. B. entered into a consideration of the inconveniences attending the discussion of complicated facts by so large a body as the House. He instanced several precedents to show that Congress had almost in every case proceeded by select committees. Mr. B. added, that if further satisfaction was wanted by any member, he supposed it proper that the prisoner should be further interrogated.

Mr. SEDGWICK was in favor of allowing counsel. He insisted that it was not merely a privilege, but a right of every citizen of the United States. He said that the circumstance of the House being both accuser and judge, afforded very great additional reason why he should be allowed counsel. Mr. S. cited the Constitution to show the right of the prisoner to counsel.

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Mr. MADISON was in favor of allowing counsel. He thought the motion would stand better if it went to allow him to answer the interrogatories by the advice of counsel.

Mr. NICHOLAS supported the affirmative of the motion. He thought it of consequence that every indulgence used in courts of law, so far as they are applicable to the present case, should be allowed.

Mr. MURRAY said, that he was decidedly for the prayer of the petition itself, rather than for any amendment of the proposition before the House. He wished the prisoner to have the advantage of all the ingenuity of all the counsel he chose to employ. He thought Randall entitled certainly to the aid of counsel, as well on his examination as on his defence: and he believed that the dignity of the House, as well as the rights of the offender, would be best consulted by permitting him to have every advantage. As he was one of those who disclosed the prisoner's crime, so he felt himself peculiarly bound to see that every indulgence consistent with the justice which gentlemen owed themselves, should be extended to him. He felt that the grant of the prayer would be a particular indulgence to himself.

Mr. HARPER objected to the interference of the House in respect to counsel. It appeared to him that the prisoner had a right to employ what counsel he pleased; and he may answer the interrogatories of the House by the advice of one or more lawyers, standing at his side, as any other citizen might stand. He suspected, however, that the prisoner meant, by counsel, to bring a lawyer into the House to plead his cause. If this was the case, he thought the prayer of the petitioner was improper.

Mr. W. SMITH was very ready to allow the prisoner counsel for his defence, but, in so doing, he wished it to be understood, not as a matter of right, but of favor. He was apprehensive that gentlemen in proceeding from one step to another, would at last reason away the privileges of the House altogether. His friend from Massachusetts [Mr. SEDGWICK] had quoted the clause of the Constitution which gave a right to have counsel in all trials for crimes: but it did not apply to this case, any more than the clause which immediately followed it, declaring that all trials for crimes should be by a jury of the vicinage, and after presentment by a grand jury. The present inquiry was of a special and peculiar nature, resulting from the rights and privileges which belonged to every Legislative institution, and without which such institution could not exist. As every jurisdiction had certain powers necessary for its preservation, so the Legislature possessed certain privileges incident to its nature, and essential for its very existence. This is called in England the parliamentary law; and as from that law are derived the usages and proceedings of the several State Legislatures, so will the proceedings of this House be generally guided by the long-established usages of the State Legislatures. There would be a manifest absurdity in conforming the proceedings in this

case to the ordinary proceedings at law in jury trials, for the House, instead of being able to protect itself, would be altogether dependent on the other branches of the Government, and in every case of aggression be obliged to send the offenders to the civil magistrate. If there was any weight in such reasoning as had been heard, then the House would have to tread back all the unconstitutional steps they had been taking, and to discharge, without delay, both the prisoners, for the arrest by the Sergeant-at-Arms, under the SPEAKER'S warrant, was only justifiable on the ground he had mentioned, namely, the inherent and indispensable power of self-preservation. That the House possessed power to arrest had not been denied, but the power of commitment was incident to that of arrest, and if it possessed both these high powers, it must of consequence possess the necessary incident of trial or inquiry, in regulating which the House was only to be governed by its own wisdom and discretion. On this occasion Mr. S. said he felt, as he trusted every member did, a proper respect for the rights of individuals brought to the bar, as well as for those of the House, and he hoped that their conduct would be marked with discretion and temper: but, willing as he was to grant the prayer of the petitioner, he could not suffer the argument which had been relied on to pass unanswered. This was the first instance, since the organization of this Government, in which it had been found necessary to resort to this high prerogative: it was right, therefore, that the principles on which it was founded should be well understood, and that the privileges of the House should stand unimpaired. The importance of the subject would be his apology for deviating a little from the question before the House. He then remarked, on the assertion of his colleague, [Mr. HARPER,] that "there was no rule of the House which prevented the prisoner being accompanied to the bar by half a dozen lawyers, who might all prompt him in his replies." If any person, said Mr. S., whether lawyer or not, should intrude himself to furnish answers for the prisoner to the interrogatories put by the SPEAKER, such person would be undoubtedly guilty of a gross indecorum, for which he would be liable to the censure of the House. He confessed he saw no necessity for counsel to aid the prisoner in simply answering whether he was guilty or not; if he acknowledged the charges, they would then decide on the mode of punishment; if he denied them, then counsel would be very properly allowed to aid him in proving his innocence. In the precedents, he said, which had come to his knowledge, he found the practice to be this: The prisoner, on being brought to the bar, was interrogated as to the charges; if he admitted them, he was either reprimanded and discharged, or committed to prison, to abide the further order of the House, but such imprisonment could not continue beyond the session; if he denied the charge, then an inquiry was had before a select committee, who reported the facts to the House. This appeared the proper mode of proceeding, and he hoped it would be pursued on the present occa-

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sion. He concluded with saying, that he should vote for allowing counsel to assist the prisoner in his defence.

Mr. DREW moved that the prayer of the petition should be granted, and that Randall be allowed till to-morrow, to be heard at the bar.

The petition was again read.

Mr. CHRISTIE had known Randall for many years, and had never heard of any thing against him before. He had lately been at Detroit, and Mr. C. believed that he had been injured by keeping bad company. He was not the first man in the country who had been corrupted by British influence and British company. He moved that Randall should be allowed till to-morrow at twelve o'clock. This was negatived.

The SPEAKER then said, that, if agreeable to the House, he would send for Randall, and inquire what time he wanted. This was done; Randall came in, and asked till Saturday, but as the House does not sit on Saturday, Friday was appointed.

The bond or agreement between the intended purchasers of the land was then read. It was dated at Detroit, the 26th of September last. Allen, Whitney, and Randall, were to have the disposal of 36 shares out of 41.

Mr. MURRAY informed the House that he had yesterday morning made a deposition as to the circumstances of the application to him before a District Judge, and that he would move for putting it on the Journals.

Charles Whitney was then called in; the information of Mr. BUCK was then read to him. He denied having made any corrupt overtures. He was ordered to withdraw.

Mr. MILLEDGE observed that the proposals to Mr. BUCK took place before the session began. It is admitted that the utmost which can be done to the prisoners is confinement till the rising of the session; if our power does not go beyond the end, it seems not to extend previous to the beginning of the session.

Mr. W. SMITH thought this a new question. He was for referring to a select committee.

One or two resolutions were made and withdrawn: at last, on a motion made by Mr. MADISON, the subject was referred to the Committee on Privileges, to consider and report to the House the proper mode of conducting the further inquiry. Adjourned.

THURSDAY, December 31.

RICHARD WINN, from South Carolina, appeared, was qualified, and took his seat.

TARIFF OF DUTIES.

Mr. HARPER called up his resolution, laid on the table some days ago, that the proper officers of the Treasury Department should be ordered to make out a tariff of duties, and goods imported, and the respective amount of the duty on each article, in the years 1793 and 1794, with a statement of the expenses of collection. Mr. H. thought it of consequence for the House to know precisely the effect of their operations in imposing duties.

On some articles it might be found expedient to reduce, and on others to augment the burden.

Mr. GALLATIN proposed that the resolution should be printed, as it was of considerable length, in order that the members might know exactly its meaning.

Mr. VENABLE did not entirely comprehend the object of the resolution. He imagined that a tariff of duties might be obtained from the laws without having recourse to the officers of the Treasury.

Mr. HARPER thought it was not unusual for a Legislative Assembly to cause the officers of the Treasury, or other characters of that kind, to select and combine materials for their own information.

The resolution was referred to a Committee of the Whole House, and made the order of the day for Monday next.

CASE OF RANDALL.

A letter was read from Robert Randall, addressed to the SPEAKER. He represented that at present counsel were not to be had, because the Supreme Court sits till Saturday evening, and, till it rises, all the gentlemen of the bar are pre-engaged. Sensible of the obligations which he had incurred already to the indulgence of the House, it was painful for him to solicit any further delay. The circumstances of the case made this step necessary. But if the House were to grant him a further indulgence, he should be prepared with his defence by the earliest part of next week; and, at any rate, he should on no account whatever ask longer time.

Mr. SWANWICK was for granting Randall a delay till Tuesday. To-morrow was the first day of the new year, and it was likely, when the House adjourned, that they might adjourn till Monday. On some explanation he withdrew his motion, and Randall's letter was ordered to lie on the table.

FORTIFICATIONS, MILITARY STORES, &c.

Mr. MALBONE laid on the table a resolution for appointing a committee to take into consideration the state of the harbors and fortifications of the United States, and of the military stores, and what measures had been taken for procuring proper sites for arsenals. The resolution was taken up and agreed to, and a committee of three members was appointed to inquire and report.

NAVAL ARMAMENT.

Mr. S. LYMAN observed, that two years had elapsed since, upon an estimate then brought forward, a Naval Armament was ordered. As progress had been made in the business, he wished that the House should learn how far experience had proved the estimates just. It was also interesting to know what sums had been expended in this business. Towards obtaining this information, he laid on the table a resolution to the following effect:

"Resolved, That the President of the United States be requested to cause the proper officers to lay before the

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House a statement of expenses already incurred for the Naval Armament."

PENAL CODE.

Mr. LIVINGSTON, from the committee appointed to inquire whether any, and what alterations may be necessary in the penal laws of the United States, laid on the table a motion from that committee. This was, that the PRESIDENT should be requested to obtain for their information a list of all the convicts who have been tried under the present laws, with a note of the date of their trial, the place where the offence was committed, and an account of the punishment inflicted. The committee were not able to proceed without information of this sort to make a basis for their report. It was moved to amend the motion by adding, after the words "criminal offences," "after conviction," as it might be an endless business to inquire about offences, where no trial or punishment had ensued. This amendment was agreed to.

Mr. VENABLE did not know of any immediate connexion between the PRESIDENT and the Federal Courts. Many convictions might happen in places where records would not easily be come at. He did not wish to cast obstruction in the way of the business, but had mentioned this as a difficulty which struck him.

Mr. HILLHOUSE did not see the use of the motion. There must be some uniform system of punishment in every part of the United States. If more crimes were committed in one State than another, still the punishment would be the same.

Mr. LIVINGSTON defended his resolution; which was carried.

Mr. SEDGWICK then moved that a committee should, as usual in such cases, be appointed to wait on the PRESIDENT with the resolution. A committee of two members was accordingly appointed.

CASE OF RANDALL AND WHITNEY.

Mr. BALDWIN, the Chairman of the Committee of Privileges, reported, in part, on the subject of the further proceedings to be had in the case of R. Randall and C. Whitney, in substance as follows:

1. That a further hearing of R. Randall should be held at the bar; that the information given by members against the said Randall be reduced to writing, signed by the informants respectively, and entered at large on the Journals; that the said information should be read to the prisoner, and he be asked by the SPEAKER what he had to say in his defence. If the prisoner should desire to produce any parol evidence to exculpate himself, the same shall be heard at the bar, and the Judge of the District of Pennsylvania be requested to attend to administer an oath or affirmation to the witnesses on the part of the prisoner; that the SPEAKER shall put all questions to the witnesses. When any debate should arise, that the prisoner and his counsel be directed to withdraw; and, when he has concluded his defence and withdrawn, that the sense of the House be taken on the guilt or innocence of the prisoners, respectively.

Mr. LYMAN wished to know upon what principle the committee had introduced the Judge into their report. He could see none. He feared that they would encroach on the privileges of the House. Mr. L. moved to strike out that clause.

The motion was negatived.

Mr. THATCHER then moved to amend the clause thus: "Witnesses on behalf of this House and of the prisoner." After some debate the motion was withdrawn.

A motion was then made to insert the words "sworn to," after the word "writings;" referring to the information already given by members to the House.

Mr. W. SMITH objected to this amendment. He stated a distinction between this examination and a common law suit. He had never heard of any member of a Legislative Assembly being called on to make oath to his information. He would for his own part, cheerfully acquiesce in the resolution adopted by the House. A member might be liable to be cross-questioned by the counsel for the prisoner or by himself. We are not here to proceed by law, but by privilege. Suppose a member were to be insulted by a stranger in the lobby, would he, on making his complaint be obliged to swear to it? Surely not. What is to become of the privileges of the House if we go on as a Court of Law? It would be giving them up. Mr. S., as to himself, was ready to make oath over again to his deposition before the Judge of the District.

Mr. MADISON was of opinion that no citizen can be punished without the solemnity of an oath to the fact. Of consequence, it is needful to the information of members, if the punishment of a fellow citizen is implicated. Perhaps it may be urged that members, having taken an oath to support the Constitution, this supersedes the necessity of an oath in the present case.

Mr. MURRAY had his deposition in his hand. He believed that all the gentlemen who had given information on this affair would make oath to it. He imagined that the gentleman from Virginia [Mr. GILES] had done so already.

Mr. GALLATIN thought it reasonable that members should be liable to be questioned upon oath. That there was no precedent for it, had little weight. There are many absurdities in the Law of Nations which gentlemen would not wish to introduce here.

Mr. SWIFT was against the members being subject to this regulation. The case was quite novel to him. But this was, at first view, his way of thinking. Suppose that some person in the gallery were to commit an insult on the House, before the whole members, would it be necessary that they should all swear to the offence before proceeding to punish it? This Mr. S. regarded as a parallel case.

Mr. THATCHER made a distinction when an offence had been committed in presence of the whole House, and when committed out of their view. In the former case, there could not be any use for evidence being sworn, because the whole House had the testimony of their senses. It was

different when the circumstances occurred in another place; and Mr. T. was convinced that the charge ought to be sworn to. The passage under amendment was in these words: "That it should be reduced to writing;" and the dispute was about adding the words, "and sworn to." Mr. T., though for examining the members on oath as to the charge against Randall, was opposed to the amendment as useless, because the members must, in his opinion, be sworn when Randall is brought to the bar. The mere declaration of a prosecutor, not under oath, and of a defendant in the same situation, are equally exceptionable. A phrase had been repeatedly used which Mr. T. did not understand. It was said that a member was entitled "to stand up in his place" and give information so and so. With the meaning of this expression Mr. T. was unacquainted, nor did he know any law which authorized the imprisonment of a fellow-citizen on a mere charge unsupported by oath. He did not see the use of the amendment, but he was clearly satisfied that members ought to be examined and sworn touching their accusations, as well as any other persons.

Mr. NICHOLAS was not, in this instance, for departing from the principles of Common Law. Instead of supporting the dignity of the House, about which so much has been spoken, he was afraid that, by arrogating too much on the side of privilege, they might lessen their dignity. He declared, upon his honor, that he thought the gentlemen concerned should, for their own sakes, insist on being cross-examined by the prisoner and his counsel. To be cross-examined implies no reflection on a witness. The imperfection of human nature requires such a precaution, and were Mr. N. a party, he would insist on being cross-examined. The proposed amendment would narrow the business too much. It would be better to lay it aside, and let the members be, as above proposed, subject to cross-examination from the prisoner.

Mr. MADISON said, that when Randall came to the bar he would possibly save all this trouble, by confessing his guilt, and casting himself on the mercy of the House. He mentioned an anecdote of a Judge who had been publicly insulted. He informed his brethren of the Bench, and, on his complaint, the offender was apprehended. When he was brought before the Court the oath was administered to the Judge. Mr. M. related this story to show the propriety of every accusation being sworn to, whatever may be the rank or situation of the accuser.

The motion for amendment was withdrawn.

Mr. SENGWICK hoped that the members would be sworn and cross-examined. He was decidedly of opinion that this ought to be the case.

Mr. MURRAY said that if the House were not defensible on the doctrine of privilege, where would an authority be found for what they had already done? We all know, and we all knew at the time of committing Randall, that it was done without any support from law. By carrying this reasoning to its utmost length, the SPEAKER might be liable in an action of damages; and Mr. M. would re-

joice in the ingenuity of any lawyer who should discover that all the House were in the same predicament.

It was then moved to adjourn. The motion was negatived. Another amendment was proposed, and, after a few words, withdrawn. A member next proposed that when this House adjourn, it shall be till Monday next. Negatived. The House then, without coming to any decision, adjourned till to-morrow.

FRIDAY, January 1, 1796.

A letter from Mr. Charles Petit to the SPEAKER, was read by the Clerk. Mr. Petit stated that he was the surviving partner of the late Major General Greene and Mr. John Cox, in the office of Quartermaster General. There was enclosed a long memorial to the House, to which he requested particular attention. The memorial was read, and ordered to lie on the table.

CASE OF RANDALL AND WHITNEY.

The House proceeded in the consideration of the report of the Committee of Privileges. The report was read.

Mr. BALDWIN remarked that the discussions of yesterday had served to convince him more and more that the plan proposed by the Committee of Privileges in their first report, was the most eligible that could be adopted; and, he added, that the further the House proceeded in the business, as they did yesterday, the more they would be convinced of the necessity of referring the ulterior proceedings to a select committee. After the House have had the parties before them, interrogatories have been proposed and answered, the prisoners do not plead guilty, and yet there appears to be cause for retaining them in custody. He was convinced that the select committee was alone competent to taking and arranging the evidence for the decision of the House. Mr. B. concluded his remarks by moving that the further consideration of the report of the committee of Privileges should be postponed till Thursday next. If that was agreed to, he should then move for a select committee.

Mr. HULLHOUSE stated a variety of objections to a reference to a select committee. He supposed it highly improper for the witnesses to be sworn by a select committee, and that committee to send for the members and have them sworn and examined in that private way. However troublesome and difficult, the House must meet all the questions and decide them on this floor. He insisted that the practice of the House did not justify a reference to a select committee of a business of this magnitude. Adverting to the debate of yesterday, relative to the members being under oath, he said that he was opposed to the measure. The great and important interests of the citizens of the United States are committed to the wisdom of the members of this House, and they are under a solemn oath for the faithful discharge of their duty; and, therefore, the declaration of the members, as such, is entitled to full and entire credit.

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Mr. W. SMITH said, that the objections of the gentleman from Connecticut are contrary to the daily practice of the House. The investigation of facts is constantly performed by select committees, and he saw no force in the remarks of the gentleman relative to a private investigation. The prisoners will be attended by their counsel, and, as to the members of the House, the committee can take no measures which are not sanctioned by the House. Mr. S. cited several incidents in the precedents of the House, to show that equally important cases had been referred to select committees. The report is not to be final, it is to be submitted to the House for a final decision. Mr. S. remarked that he supposed a select committee would be appointed which would not include any of the members who had given information to the House on the subject.

Mr. ISAAC SMITH next rose, and spoke as follows: I will take up the subject where we left it yesterday. Debates have run into length and perplexity on this occasion, which, I presume, has been owing to our ideas running too much in the legal line. We seem to consider ourselves as bound by the rules and usages of Common Law Courts. If we are, I am free to say that we have begun wrong, we have progressed wrong, and we will end wrong. The rules and usages of Law Courts arise from, and are founded upon, pre-existing laws. Here there is no preceding law, and, therefore, whatever we have done, or shall do, is a mere nullity. Shall we then give up this business as impracticable? No. We will assert the privilege of this House. And what is this privilege? Perhaps it never has been defined, nor its extent and limits ascertained; perhaps it never ought. The Parliament of Great Britain has studiously avoided the discussion. But I will presume to assert that it is a necessary and competent power lodged in this House, *ex necessitate rei*, by which we are enabled to defend ourselves against insult from within and contamination from without; and this power is to be exercised at the discretion of the House, and is bound by no rules but what arise from common sense and common justice. Shackle it by standing regulations and it is no longer discretion, it is law. Every case that occurs must stand on its own bottom, and be determined according to attendant circumstances.

My opinion, therefore, and I do assure you, sir, I speak with great diffidence, but my duty compels it—is this: that Randall be brought to the bar of this House; that it be demanded of him whether he is guilty of the facts he has already been charged with? He no doubt will say, No, I am not guilty. In reply, I would say to him, sir, I do not believe one word you say, for several honorable members have solemnly declared that you are guilty; and what you have now to do, and all you have to do, is to convince the House, if you can, that, although your conduct was crime, still you are not criminal, because your motives were not corrupt, and your intentions were pure, and you offended merely from ignorance. Then you may, perhaps, meet with a gen-

tle reprimand for your indiscretion. But, if you fail in this, we will put it out of your power, during the session, to insult the members with your rascally proposals. A dozen lawyers may attend him, pocket his money, and walk away at their leisure. I have no objection, if they do but keep silence whilst they are here.

Mr. SHERBURNE said, that, if the gallery had been cleared before the affair of Randall and Whitney was first brought before the House, he would have been ready to consent to a private examination before a select committee; but the charge was made in the face of the world, and hence a citizen of America was entitled to an open trial. Alluding to the speech of Mr. ISAAC SMITH, Mr. SHERBURNE thought it highly injurious to presume any man guilty, because he had been accused by members of the House. What is it to Randall who are the accusers, what are their characters, or whether they are members of this House or not? We talk about the dignity of the House—the rights of our fellow-citizens are equally entitled to respect and attention. What a doctrine has been held up to day! That a man is guilty, because he has been accused by members of this House! No, sir: every man is presumed innocent till he is proved guilty. Mr. S. concluded by wishing that the doors had been shut when the subject was first introduced.

Mr. MURRAY recommended that the subject should be remanded to a committee, which would save a good deal of time.

Mr. SHERBURNE.—When we speak of privileges of the House, it seems a word of cabalistic meaning. Will any gentleman define or point out these privileges? In what book of the laws are they written? If they are indefinite, we may come to be hereafter as irregular as a Convention, and our sentences as dreadful as those of a revolutionary tribunal. The latter, when they thought fit, refused to hear the evidence of a prisoner, under pretence that they had already conveyed to their minds a sufficient conviction of his guilt, and he was instantly hurried off to the scaffold. It seemed that this allusion referred to the idea of a gentleman from New Jersey, that because Randall had been accused by members of that House, the House were authorized to conclude him guilty.

The term of *leges non scriptas* had been used by the gentleman last up as to the privileges of the House. The phrase, Mr. S. thought, to be derived from the first Constitutional Assembly of France. They had applied it, along with the word inviolability, to Louis XVI., and soon after cut off his head. They had declared that he, like the King of England, could do no wrong. We have no such officers, thank God, in America, and Mr. S. hoped that we never should have them. The PRESIDENT is, by the Constitution, declared impeachable; this House, &c., are also declared to be so. Where, then, is the inviolability talked of?

Mr. MURRAY said, that we might represent this matter in a painful light to the public eye; but he insisted that it was essential to support the privileges of the House. The measure of apprehend-

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ing Randall and Whitney had at first been assented to by all the members. The gentleman who spoke last had, among others, embarked himself in it.

A vote was then taken on the motion for postponing the further consideration of this affair till Thursday next. Only eighteen gentlemen rose in the support of it.

Mr. HILLHOUSE then moved to strike out the following words from the report, viz: "witnesses on behalf of the prisoner," and to insert, "all witnesses, excepting members of this House, who may give information in their places; and that all questions to any member shall be put by the SPEAKER, under the direction of the House."

Mr. S. SMITH rose to speak a few words on the question of swearing members; because, when the examination should commence, it would be necessary for him to come forward. He also had the honor of a visit from Mr. Randall. Before Mr. SMITH went last to Baltimore, the man had called upon him at his lodgings. He requested and obtained a private conference, wherein he represented the great advantage that would accrue to the United States by removing the Indians to the other side of the Lakes; that this could be done by the influence of certain merchants in Canada. And then he proceeded to the detail of the plan, in much the same terms as have already been mentioned in the accounts of Mr. W. SMITH, Mr. MURRAY, and Mr. GILES. When Mr. S. SMITH came back into the room, he said to a gentleman now sitting by him, and who lodged with him, [Mr. BRENT, from Virginia,] that he suspected there was another Georgia business going forward; and that "I might, perhaps," said Mr. SMITH, smiling, "make my fortune in the Northwestern Territory." The man spoke with so much decisiveness, that Mr. SMITH was forced to give him some degree of credit when he said that he had secured a majority. He was afraid of coming into a delicate situation, if he should mention the proposal in the House, if there really was any sort of foundation for the report. He could not have had an idea of any man coming forward and flatly telling such a story, without some reason to think himself telling truth. Mr. SMITH now understood how these people, while attempting to deceive others, had in reality deceived themselves. Mr. S. SMITH had listened with patience to the man in the view of getting the whole out of him. Other gentlemen did the same, and this Randall construed into approbation. Randall clearly conveyed to me the idea that such members of Congress who actively supported their memorial might have a large share in those lands, and those who only gave their consent, a smaller. These were the words of Randall, who likewise mentioned the number of Senators who were, as he termed them, snug. Just after this application, Mr. SMITH was obliged to return to Baltimore on business, and had, on his way, been puzzled in his own mind what to think of this intelligence, or what to make of it. [Mr. S. SMITH had not been in the House since the Randall affair was laid open, which explains the lateness of his rising to speak.] As to the point before

the House, Mr. SMITH was for the members (of whom he would be one) being examined upon oath.

Mr. NICHOLAS was in favor of the oath being administered to members. It had been alleged that the oath taken to the Constitution took away the necessity for another on giving evidence against Randall and Whitney. If that oath serves here, it may also regulate our conduct everywhere else, and we may refuse to swear before an ordinary Court of Justice. The oath to the Constitution was not sufficiently connected with the present case. It either does not apply to the question before the House, or it likewise applies to all other judicial cases. He hoped that the House would never arrogate to themselves such a privilege as that now contended for. Any improper assumption would make the House incur suspicion, and, he would add, contempt.

Mr. SHERBURNE, in reply to something which had fallen from a preceding member, rose again to take away any possibility of suspicion that his arguments glanced at members personally—an idea the most remote from his mind. If he had a trial depending where all he had to lose in the world was at stake, so perfect and unlimited was his confidence in the members who gave information about Randall, that he would take their verbal declarations on any point with as much readiness as if they had been on oath. It was the principle which he looked to. Randall himself had a right to be satisfied of his having a fair trial. The House, like Cæsar's wife, ought to be above suspicion. As to the argument that the oath taken by members at their admission to a seat in the House prevented the necessity of swearing in the present case, this doctrine reminded Mr. SHERBURNE of something which he had once seen. A clergyman of New England was, in the course of a trial, called on to give evidence. When the Clerk was going to administer the oath, he turned round to the Judges, and inquired whether his ordination oath, taken many years before, would not save him a repetition of that ceremony now.

Mr. BRENT, in a few words, related the application of Randall to Mr. S. Smith, as already stated, with Mr. S. SMITH's remark that this seemed to be a second Georgia business.

Mr. GILES had hitherto been silent; but the turn which the question was taking, induced him to rise and submit his opinion to the House. He saw only two reasons for proceeding on the doctrine of privilege. First, where it rose from the necessity of the case. In the present instance, he saw no necessity for any exemption of members from giving evidence with the usual solemnities. The second reason for insisting on privilege might be the dignity of the House. In a country like this, where parade is laid aside, dignity consists in doing right—in adhering to the principles of substantial justice. The House would not consult their dignity if they should attempt to separate themselves from the mass of the people. For his own part, Mr. G. should not feel right, if he was to give information without the usual solemnities. He would, therefore, vote that the amend-

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ment, so far as it related to exempting members from giving oath, should be struck out.

Two other amendments were successively proposed to the amendments of Mr. HULLHOUSE. It was difficult to hear them distinctly; and the less material, because all the reasonings of gentlemen turned on this single point, whether it was consistent with the privileges of the House to let its members be examined upon oath.

Mr. W. SMITH stated the inconsistent situations in which this plan, if adopted, would involve gentlemen. A member is giving evidence, upon oath, at the bar: a question is proposed to be put to him, and the member leaves his place as an evidence, and assumes that of a judge to give his vote in deciding whether such a question shall be put to himself. Where was the propriety of shifting characters in this Proteus-like manner? Mr. S. knew no instance where the members of a Legislative body were ever sworn by that body, on giving evidence about a question of privilege. It happened only where there was a trial before the House. The moment you decide that members are to be sworn, they are virtually suspended; for, on any question which they were to answer as witnesses, they would not have a title to determine as judges. The moment that you resolve this thing to be determined by the rules of judicial evidence, you alter the whole nature of the transaction: your former proceedings are admitted to have been wrong, and Randall may bring an action against the SPEAKER for damages and wrong imprisonment.

Mr. BRENT observed, that when the writ for apprehending Randall and Whitney was issued, he had his doubts that the House were proceeding too far: he was suspicious that they exceeded the limits of their authority. In the present stage of the business, he was less indeterminate in his opinion on the present question, relative to the members being on their oath as witnesses. He thought it noways derogatory to them as members, nor would it be so to the PRESIDENT OF THE UNITED STATES; it could not lessen the dignity of any character whatever. Mr. B. was in favor of the House proceeding so as to give the accused all the advantages they could derive from counsel in a Court of Law. He saw no reason for a departure from the common rules of taking evidence. It is said not to be usual for Legislative bodies to proceed as a Court of Judicature, and that members of Legislative bodies are not put on oath in their Legislative capacities. This idea is derived from the practice of the Parliament of Great Britain. Is that a sufficient precedent for us? He hoped not. Our great object is this: that the House be secured from disrespect and insult. This idea forms the basis on which its privileges as a Legislative body are supported. It is from the nature of the case, and not from British precedents, that the privileges of this House are derived. Adverting to the members being sworn, he conceived that there was no more impropriety in it, on the ground of their being judges, than there is in the Judge of a Court, who, when called on to give evidence, descends from the Bench—is sworn—gives

his testimony with the customary solemnities—resumes his seat—and ultimately gives judgment.

Mr. HARPER was in favor of the members being sworn to the truth of the declarations, when called on to give evidence. He knew of nothing in the present case that rendered it necessary they should be exempted. Evidence on oath is the basis of law proceedings in this country. It had been affirmed by Mr. SMITH, (his colleague,) that if a Judge were insulted in his office, the Court would proceed immediately to punish the offender. Mr. H. said he apprehended not: the Judge must make oath to his complaint. It has been said that the members cannot with propriety be interrogated or cross-questioned. The inference from this is, that because we are judges in our own cause, we will preclude the accused from the usual modes of vindicating themselves. Mr. H., in adverting to the members being sworn, disclaimed all personal considerations. The gentlemen who would probably be affected by the regulation possessed characters far above suspicion. Mr. H. considered the discussion as forming an uninteresting precedent.

A motion was now made to adjourn—ayes 34, noes 50.

The amendment before the House at this particular place of the debate, was, in substance, as follows: Instead of saying, in the report, that "the Judge of the District of Pennsylvania should be requested to attend to administer the oath to witnesses on behalf of the prisoner," the amendment proposed to strike out the last six words, and insert, "to all witnesses."

Mr. W. SMITH rose after Mr. HARPER, and remarked, that if the doctrine laid down by that gentleman was right, it was a judicial proceeding altogether, and the House had been in the wrong from the beginning to the end of the matter. He would oppose the present motion, in every possible shape and stage of it; for if we must go on by judicial rules, we must have a Grand Jury, &c., and (though by what authority Mr. S. could not tell) must convert ourselves into a Court of Law. If the motion succeeded, he gave notice of his design to move that Robert Randall and Charles Whitney should be dismissed from the bar of the House, and that the PRESIDENT OF THE UNITED STATES should be requested to prosecute them for their offence in one of the Federal Courts.

Fifty-four gentlemen rose in support of the amendment which was carried. The House then agreed to the report of the Committee of Privileges; which report, as amended, is in the following words:

"That the proper mode of conducting the further inquiry and the trial in the case of Robert Randall and Charles Whitney will be to proceed, first, with a further hearing of Robert Randall at the bar of the House.

"That the information that has been given against the said Robert Randall and Charles Whitney be reduced to writing, and signed by the informants themselves, respectively, and entered at large on the Journal; that the said information be read to the prisoners, and that they be called upon by the Speaker to declare what they have to say in their defence.

"That, if the said prisoners shall offer any parole evi-

dence in their exculpation, the same shall be heard at the bar of the House, excepting the members of the House, who may give their testimony on oath, in their places; and no question shall be put to any member on the part of the prisoner, by way of cross-examination, except leave be first given by the House; and every such question shall be put by the Speaker; and that the Judge of the District of Pennsylvania be requested to attend for the purpose of administering an oath or affirmation to all witnesses. That all questions on the part of the House, to be asked of the said witnesses, shall be put by the Speaker.

"That, on every debate, the prisoners and their counsel shall be directed to withdraw; and that, when they shall have concluded their defence, and are withdrawn, the sense of the House shall be taken on the guilt or innocence of the prisoners, respectively."

MONDAY, January 4.

THE BRITISH TREATY.

Mr. PARKER presented five petitions against the late Treaty with Britain, from certain citizens of Virginia. He said that they were copies of some other petitions on that head already presented to the House, which made it perhaps unnecessary to read them. Mr. TRACY asked whence the petitions came? Mr. PARKER answered, from Norfolk county. Mr. THATCHER inquired if they were from corporate bodies? Mr. PARKER replied that they were from individuals. The petitions were referred to the Committee of the Whole House on the state of the Union.

COMMERCIAL RESTRICTIONS.

Mr. S. SMITH laid on the table a resolution which was ordered to be printed. It was in substance as follows:

"Resolved, That, from and after the — day of —, it shall not be lawful for any foreign ship or other vessel to land in the United States any goods, wares, or merchandise, except such as are of the produce, growth, or manufacture of the nation to which such ship or other vessel may belong."

Mr. S. observed, that at the session before last, one of the resolutions offered by a member from Virginia was in substance analogous to the present resolution, and that resolution, there was reason to believe, would have passed. The Treaty lately negotiated made some provision of the kind contemplated, more essentially necessary than ever. Such a protecting encouragement to the American navigation was the more proper, as, when the said Treaty should be in force, it must receive a severe shock.

PRESENTATION OF THE FLAG OF FRANCE.

The SPEAKER informed the House, that a Message was ready to be delivered to the House, of a nature calculated to give the most pleasing satisfaction to every American breast. He suggested to the House, and the citizens in the galleries, the propriety of not suffering the fervor of enthusiasm to infringe on the dignity of the Representative Councils of the United States. He recommended that a respectful silence should be observed, as most compatible with the true dignity

of the House, and the honor of the magnanimous Republic that was the subject of the Message.

The PRESIDENT'S Secretary was then introduced, with an American officer bearing the Standard of the French Republic,* sent by the Committee of Public Safety, Organ of the National Convention, as a token of friendship to the United States. The Secretary presented a Message in writing from the PRESIDENT, with sundry papers accompanying it to the SPEAKER, by whom they were read as follows:

*Gentlemen of the Senate, and
of the House of Representatives:*

A Letter from the Minister Plenipotentiary of the French Republic, received on the 22d of the last month, covered an Address, dated the 21st of October, 1794, from the Committee of Public Safety to the Representatives of the United States in Congress; and also informed me that he was instructed by the Committee to present to the United States the Colors of France. I therefore proposed to receive them last Friday, the first day of the new year, a day of general joy and congratulation. On that day the Minister of the French Republic delivered the Colors, with an Address, to which I returned an answer. By the latter, the House will see that I have informed the Minister that the Colors will be deposited with the archives of the United States. But it seemed to me proper previously to exhibit to the two Houses of Congress these evidences of the continued friendship of the French Republic, together with the sentiments expressed by me on the occasion in behalf of the United States. They are herewith communicated.

G. WASHINGTON.

UNITED STATES, January 4, 1796.

[TRANSLATION.]

The Representatives of the French People, composing the Committee of Public Safety of the National Convention, charged by the law of the 7th Fructidor, with the Direction of Foreign Relations, to the Representatives of the United States of America in Congress assembled:

Citizens Representatives: The connexions which nature, reciprocal events, and a happy concurrence of circumstances, have formed between two free nations, cannot but be indissoluble. You have strengthened those sacred ties by the declarations, which the Minister Plenipotentiary of the United States has made, in your name, to the National Convention, and to the French people. They have been received with rapture by a nation who know how to appreciate every testimony which the United States have given to them of their affection. The Colors of both nations, united in the centre of the National Convention, will be an everlasting evidence of the part which the United States have taken in the success of the French Republic.

* DESCRIPTION OF THE FLAG.—It is tricolor, made of the richest silk and highly ornamented with allegorical paintings. In the middle, a Cock is represented, the emblem of France, standing on a thunderbolt. At two corners, diagonally opposite, are represented two bombshells bursting; at the other two corners, other military emblems. Round the whole is a rich border of oak leaves, alternately yellow and green; the first shaded with brown and heightened with gold; the latter shaded with black and relieved with silver; in this border are entwined warlike musical instruments. The edge is ornamented with a rich gold fringe. The staff is covered with black velvet, crowned with a golden pike, and enriched with the tricolor oravette and a pair of tassels worked in gold, and the three national colors. The flag is to be deposited in the archives of the United States.

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Flag of France.

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You were the first defenders of the rights of man in another hemisphere. Strengthened by your example, and endowed with an invincible energy, the French people have vanquished that Tyranny, which, during so many centuries of ignorance, superstition, and baseness, had enchained a generous nation.

Soon did the people of the United States perceive that every victory of ours strengthened their independence and happiness. They were deeply affected at our momentary misfortunes, occasioned by treasons purchased by English gold. They have celebrated with rapture the successes of our brave armies.

None of these sympathetic emotions have escaped the sensibility of the French nation. They have all served to cement the most intimate and solid union that has ever existed between two nations.

The citizen ADET, who will reside near your Government in quality of Minister Plenipotentiary of the French Republic, is specially instructed to tighten these bands of fraternity and mutual benevolence. We hope that he may fulfil this principal object of his mission, by a conduct worthy of the confidence of both nations, and of the reputation which his patriotism and virtues have acquired him.

An analogy of political principles; the natural relations of commerce and industry; the efforts and immense sacrifices of both nations in the defence of liberty and equality; the blood which they have spilled together; their avowed hatred for despots; the moderation of their political views; the disinterestedness of their councils; and especially, the success of the vows which they have made in presence of the Supreme Being, to be free or die; all combine to render indestructible the connexions which they have formed.

Doubt it not, citizens, we shall finally destroy the combination of tyrants. You, by the picture of prosperity, which, in your vast countries, has succeeded to a bloody struggle of eight years; we, by the enthusiasm which glows in the breast of every Frenchman. Astonished nations, too long the dupes of perfidious Kings, Nobles, and Priests, will eventually recover their rights, and the human race will owe to the American and French nations their regeneration and a lasting peace.

Paris, 30th Vendemaire, 3d year of the French Republic, one and indivisible.

The Members of the Committee of Public Safety.

J. S. B. DELMAS,

MERLIN (of Douai) &c.

OCTOBER 21, 1794.

[TRANSLATION.]

Mr. President: I come to acquit myself of a duty very dear to my heart; I come to deposite in your hands and in the midst of a people justly renowned for their courage and their love of liberty, the symbol of the triumphs and of the enfranchisement of my nation.

When she broke her chains; when she proclaimed the imprescriptible rights of man; when, in a terrible war, she sealed with her blood the covenant she had made with Liberty, her own happiness was not alone the object of her glorious efforts; her views extended also to all free people. She saw their interests blended with her own, and doubly rejoiced in her victories, which, in assuring to her the enjoyment of her rights, became to them new guarantees of their independence.

These sentiments, which animated the French nation from the dawn of their revolution, have acquired new strength since the foundation of the Republic.

France, at that time, by the form of its Government, assimilated to, or rather identified with, free people, saw in them only friends and brothers. Long accustomed to regard the American people as her most faithful allies, she has sought to draw closer the ties already formed in the fields of America, under the auspices of victory, over the ruins of tyranny.

The National Convention, the organ of the will of the French nation, have more than once expressed their sentiments to the American people; but above all, these burst forth on that august day, when the Minister of the United States presented to the National Representation the Colors of his country. Desiring never to lose recollections as dear to Frenchmen as they must be to Americans, the Convention ordered that these Colors shall be placed in the hall of their sittings. They had experienced sensations too agreeable not to cause them to be partaken of by their allies, and decreed that, to them, the National Colors should be presented.

Mr. President, I do not doubt their expectations will be fulfilled; and I am convinced that every citizen will receive, with a pleasing emotion, this flag, elsewhere the terror of the enemies of liberty, here the certain pledge of faithful friendship; especially when they recollect that it guides to combat, men who have shared their toils, and who were prepared for liberty by aiding them to acquire their own.

P. A. ADET.

The Answer of the President of the United States to the Address of the Minister Plenipotentiary of the French Republic, on his presenting the Colors of France to the United States:

Born, sir, in a land of liberty; having early learned its value; having engaged in a perilous conflict to defend it; having, in a word, devoted the best years of my life to secure its permanent establishment in my own country, my anxious recollections, my sympathetic feelings, and my best wishes, are irresistibly excited, whensoever, in any country, I see an oppressed nation unfurl the banner of freedom. But, above all, the events of the French Revolution have produced the deepest solicitude, as well as the highest admiration. To call your nation brave, were to pronounce but common praise. Wonderful people! Ages to come will read with astonishment the history of your brilliant exploits! I rejoice that the period of your toils and of your immense sacrifices is approaching. I rejoice that the interesting revolutionary movements of so many years have issued in the formation of a Constitution designed to give permanency to the great object for which you have contended. I rejoice that liberty, which you have so long embraced with enthusiasm; liberty, of which you have been the invincible defenders, now finds an asylum in the bosom of a regularly organized Government; a Government, which, being formed to secure the happiness of the French people, corresponds with the ardent wishes of my heart, while it gratifies the pride of every citizen of the United States by its resemblance to their own. On these glorious events, accept, sir, my sincere congratulations.

In delivering to you these sentiments, I express not my own feelings only, but those of my fellow-citizens, in relation to the commencement, the progress, and the issue of the French Revolution: and they will cordially join with me in purest wishes to the Supreme Being, that the citizens of our sister Republic, our

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magnanimous allies, may soon enjoy, in peace, that liberty which they have purchased at so great a price, and all the happiness which liberty can bestow.

I receive, sir, with lively sensibility, the symbol of the triumphs and of the enfranchisement of your nation—the Colors of France—which you have now presented to the United States. The transaction will be announced to Congress, and the colors will be deposited with those archives of the United States, which are at once the evidences and the memorials of their freedom and independence. May these be perpetual, and may the friendship of the two Republics be commensurate with their existence.

GEORGE WASHINGTON.

UNITED STATES, January 1, 1796.

When the reading of the Message and papers had been concluded—

Mr. GILES informed the House that, having been aware that the Flag would be presented to the House this day, considering it as an additional testimony of the affection of France, and it having been the practice on analogous occasions for the House to express their sentiments independent of the other branch, he had prepared a resolution expressive of what he conceived would be their sense on the occasion. It was nearly in the words following:

“Resolved, That the President of the United States be requested to make known to the Representatives of the French people, that this House has received, with the most lively sensibility, the communication of the Committee of Public Safety, of the 21st of October, 1794, accompanied with the Colors of the French Republic, and to assure them that the presentation of the Colors of France to the Congress of the United States is deemed a most honorable testimony of the existing sympathy and affections of the two Republics, founded upon their solid and reciprocal interests; that the House rejoices in the opportunity of congratulating the French Republic on the brilliant and glorious achievements accomplished under it during the present afflictive war, and that they hope those achievements will be attended with a perfect attainment of their object, the permanent establishment of the liberty and happiness of that great and magnanimous people.”

Mr. SEDGWICK wished that a thousand copies of the communications might be printed, and the further consideration of the Message deferred till to-morrow.

Mr. W. SMITH also recommended a delay. In the sentiments of the resolution they all agreed. Perhaps the wording might be somewhat altered.

Mr. HARPER rose and moved that, for various reasons, which he stated, the resolution should be immediately taken up and acted upon.

Mr. SWANWICK was against postponing the consideration of the Message, and observed that the Convention, on receiving a similar present from this country, had proceeded instantly to a vote respecting it.

Mr. W. SMITH, recommended to alter the wording of the resolution, by inserting the Executive of France, instead of the Representatives of the French people, to whom the message in reply was to be directed.

Mr. SHERBURNE observed, that the difference of opinion respecting the branch of Government to which the answer of the House should be addressed, furnished an additional reason for postponement. He highly respected the author of the motion, and believed his own feelings on the present occasion as fervent as those of any member. And though the feelings of the House might not be as ardent on the morrow as at this moment, yet he presumed that the sentiment would be the same. He conceived that it would be more satisfactory to the Republic, and more consistent with the dignity of the House, that their answer should be the result of cool deliberation, than a sudden impulse of enthusiasm, which the present occasion was calculated to inspire. He would therefore move that the further consideration of the resolution on the table be postponed until to-morrow.

Mr. SWANWICK thought a postponement in this case, as in any others, would only be a waste of time. The motion was negatived.

Mr. W. SMITH's amendment was then taken up, and, after some conversation, was also negatived.

Mr. PARKER moved an amendment as follows: “That this House has received with the most sincere and lively sensibility,” &c. The amendment was for inserting the two words in italics, to which the House consented. The message was then voted unanimously, and a thousand copies of the communications and resolution were ordered to be printed. A committee of two members was appointed to wait on the President, and inform him of the resolution agreed to by the House.

CASE OF RANDALL AND WHITNEY.

Pursuant to the proceedings of the House on Friday last, Mr. SMITH, of South Carolina, Mr. MURRAY, of Maryland, Mr. GILES, of Virginia, and Mr. BUCK, of Vermont, delivered in at the Clerk's table their several informations in writing, subscribed with their names, respectively, in the cases of Robert Randall and Charles Whitney; which are as follow:

WILLIAM SMITH, one of the Representatives of the State of South Carolina in the Congress of the United States, declares—

That, on Tuesday last, the twenty second instant, a person who called himself — Randall, and who is said to be from the State of Maryland, applied to him at his lodgings, in the city of Philadelphia, and requested a private and confidential conversation of an hour, which the informant agreed to; and at the time appointed, which was the same evening, the said Randall, being alone with the informant, communicated to him a proposal for procuring from the Legislature of the United States a grant of about eighteen or twenty millions of acres in the Northwestern Territory, between Lakes Michigan, Huron, and Erie. That the said Randall observed; that the grant he proposed would be of great service to the United States, from the persons who would be interested therein, (to wit: certain Canada merchants at or near Detroit, whose names he did not mention,) having great influence over the Indians, who were not pacified by the late Treaty concluded with General Wayne; and that the said persons would extinguish the Indian claims at their own expense; and after setting forth the saving of expense, by the cessa-

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tion of the Indian war, and other reasons to induce a belief that the proposed grant would be of public utility, he proceeded to inform the informant, that the intention was to divide the land into about forty shares, twenty-four of which would be allowed to, or distributed among, such persons (meaning, as this informant understood him, from the whole purport of his conversation, members of Congress) as would favor the measure: that of these twenty-four shares, he had the management or distribution of twelve for the Southern part, (meaning, as the informant understood, the Southern members of Congress,) and another person, whose name he did not mention, had the disposition of the other twelve, for the Eastern part, (still, as the informant understood and believes, meaning as aforesaid.) That he, the said Randall, proposed subdividing the said shares into so many portions, as to have a sufficiency to obtain a majority, (meaning, as the informant understood him, a majority of Congress,) and that gentlemen, after the session was over, or when they returned to private life, might then have such parts of shares, as the said twenty-four shares would be reserved for such of them as would favor the business, on the same terms as the original associators. That the view of him, the said Randall, and of those concerned with him, was to present a memorial on the following Monday, to Congress, to obtain the said grant for a small price, mentioning half a million of dollars; and that he supposed the land was worth more than two shillings an acre. On taking leave, he pressed the informant for an early and decisive answer to the foregoing proposals; to which the informant replied, that he would not wish to see him again before Friday morning, and requested him to call on him at Congress, and not at his lodgings; but the House did not sit on Friday, and the informant has not seen him since. The informant further says, that the foregoing is the substance and purport of the communication to him made by the said Randall, on the subject above set forth; and that the impression clearly made on the mind of the informant, by the overtures, was, that, under a pretext of public utility, the object of the application was, to secure the informant's influence, as a member of Congress, by a temptation of great personal advantage. That the informant, the next morning, communicated the substance of the foregoing to Mr. Murray, one of the members from Maryland, and consulted him on the most proper mode of proceeding on so delicate an occasion; that Mr. Murray advised a consultation with Mr. Henry, of the Senate; and that, in consequence of such consultation with Mr. Murray and Mr. Henry, on the following day (Thursday) it was resolved, that the informant should immediately communicate the whole transaction to the President of the United States; which he accordingly did.

WILLIAM SMITH.

DECEMBER 28, 1795.

Mr. MURRAY declares, that, on Wednesday last, the twenty-third instant, Mr. Smith, member of Congress, of South Carolina, informed him that a man of the name of Randall, of Maryland, had, the evening before, attempted to bribe him in Western lands, on condition of his supporting an application which Randall told him he should soon make to Congress; the object of which application was, a grant from Congress of from eighteen to twenty millions of acres of land, between Erie, Huron, and Michigan. That Mr. Smith was extremely solicitous that some other gentleman should immediately be informed of the infamous proposal, and that he said he would mention it to Mr. Henry, of the Senate,

and advise with him upon proper measures for the detecting of the full extent of the scheme, and crushing it: That he had no opportunity of talking to Mr. Henry on that day; but early on the morning of the twenty-fourth instant, communicated the intelligence to Mr. Henry, who recommended that Mr. Smith should immediately inform the President: that on the said day, Mr. Randall, of Maryland, was introduced to him, the informant, and requested a confidential interview at his, the informant's lodgings, which the informant readily promised him, to be at five, for the purpose of developing his scheme. That Randall came at or near five, that day last named, to wit: on Thursday, and communicated to Mr. Henry and himself, in general terms, the outline of a plan by which he, Randall, and his Canada friends, would extinguish the Indian title to all the lands between lakes Erie, Huron, and Michigan, as marked on a map which Randall then showed, containing from eighteen to twenty millions of acres. That he, the informant, then asked Randall into his apartment, where they were alone. That Randall expatiated at first upon the public utility of his scheme, which was, that Congress should grant to him and his company, all the land aforesaid mentioned, for five hundred thousand, or, at most one million of dollars; and that he would undertake, in four months, that the harmony of the Indians should be secured to the Union: or, if Congress thought proper, that the Indian tribes now on said land should be removed to the British side, or down lake Michigan, reserving to some aged chiefs a few miles square; that his company and himself had determined to divide the lands aforesaid into forty (or forty-one) shares. That of these shares twenty-four were to be reserved for the disposal of himself and his partner, now in town, for such members of Congress as assisted them, by their abilities and votes, in obtaining the grant aforesaid: That of these twenty-four shares, his partner had twelve under his management for the Eastern members of Congress, and that he, Randall, had the other twelve shares under his management for the Southern members of Congress. That these shares were to be so divided as to accomplish the object by securing a majority of Congress. That the informant started an objection to land speculation as troublesome, and that he, Randall, said, if you (meaning the informant) do not choose to accept your share of the land, you shall have cash in hand for your share. That the informant appointed Randall to meet him in the lobby of the House on Monday, the twenty eighth instant. That Randall told him a memorial was to be handed in upon this subject on said Monday; but refused to inform the informant what member was to present it: That Randall told him, that he, Randall, mentioned his plan to some members in the *general way* only—meaning thereby, as he understood him, a view of the sounder part of the plan, as being conducive to public utility. That, in the early part of the confidential and secret conversation, Randall said, that the members of Congress who would behave handsomely, should come into their shares on the same terms upon which the company obtained the grant; but soon after, made proposals more openly seductive and corrupt; closing them with the offer of cash in hand as aforesaid. That the informant, on that evening, when Randall went away, told Mr. Henry of the whole of Randall's offers aforesaid; then called on the Secretary of State, and communicated the same to him; and the next morning, early, informed the President of the transaction.

W. V. MURRAY.

DECEMBER 29, 1795.

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Case of Randall and Whitney.

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WILLIAM B. GILES, a member of the House of Representatives in the Congress of the United States, declares,

That in the evening of Thursday, the seventeenth of December, one thousand seven hundred and ninety-five, as well as this informant recollects, a person called upon this informant at his lodgings, under the name of Robert Randall, with an introductory note from Mr. Gabriel Christie, in the usual form, dated the fifteenth of the said month.

That the said Robert Randall informed this informant, that he had some business of importance to communicate to this informant, which would probably come before Congress: That it respected the fur trade at present carried on by the British traders with the Indians, through the lakes. He observed that it would be important to change the course of that trade into some channel through the United States: That he believed he could put Congress upon some plan for effecting that object: That the plan was of a secret nature: That he was not then prepared to disclose it, and requested a private interview with this informant for that purpose, at some other time. Upon which request, this informant appointed the next Saturday, at twelve o'clock, (being the nineteenth of December,) to receive the communication.

That about the time appointed, the said Robert Randall called on this informant, and after some general conversation, informed this informant, that an association had been formed by himself and others, with some of the most influential traders at Detroit, for the purpose of purchasing all the lands contained in the Peninsula formed by lakes Erie, Huron, and Michigan, and the waters connecting those lakes, amounting in the whole to twenty or thirty millions of acres, if the consent of Congress could be obtained for the extinguishment of the Indian claims thereto. The said Randall then produced a map of the Peninsula and Lakes.

That this tract of country was to be divided into shares, and that a number of shares was to be left unappropriated, until the necessary law of Congress should pass, authorizing the extinguishment of the Indian claims; and might then be filled up by those who might think proper to concur in the plan, and should give their aid for procuring the passage of such law. Upon this intimation, this informant observed, that he hoped the said Randall did not intend to address the information of the unappropriated shares particularly to this informant.

To which the said Randall replied that he did not; that he only meant it as general information; but he could see no impropriety in the members of Congress being concerned in the scheme, if the public good was to be promoted by it; and that thirty or forty members were already engaged in its support; or words to that effect.

After some further conversation of a general nature, respecting the present state of the fur trade, the value of the lands contained in the peninsula, and the probable effect of the late Treaty upon that trade and country, the said Randall inquired of this informant "whether he deemed his plan advisable, and whether it would meet with the support of this informant in Congress." To which this informant replied, that if the said Randall should bring his proposals before Congress, this informant would give them the consideration which his duty required, and should give such vote as he deemed right; or words to that effect. Very shortly after this conversation, Mr. Edward Livingston, a member of

Congress from New York, entered the room, and the said Randall left it, without further observation, as well as this informant recollects. This informant immediately communicated the contents of this conversation to Mr. Livingston, and declared that he considered the proffer of the unappropriated shares to the members of Congress, as a direct attempt at corruption.

This informant, on the same day, communicated the substance of the conversation to the Speaker of the House of Representatives of the United States, to Messrs. Blount, and Macon, of North Carolina, and to Messrs. Madison, and Venable, of Virginia. It was deemed advisable, by all these gentlemen, as well as by this informant, to permit the plan to be brought before Congress in the usual way, by memorial, and to cause a detection, by means of a committee, to whom the said memorial should be referred: and in the mean time, if the said Randall should again call on this informant, he should proceed to make further discovery of the real state and nature of the transaction.

That on the next day the said Randall did again call on this informant, and informed him, that he, the said Randall, then proposed to disclose his plan more particularly; and after some general remarks upon the public utility, as well as individual benefit of the plan, he said that it was in substance as follows:

The tract of country before described was to be divided into forty-one shares, five of which were to be reserved to the Indian traders at Detroit; the other thirty-six were to be divided into two departments; eighteen to the Eastern and eighteen to the Southern department. That six out of the eighteen shares were to be reserved to his Eastern partner and associates, and six out of the remaining eighteen, to himself and his associates. That the remaining twenty-four shares were to be left unappropriated, for the use of such members of Congress as should support the measure. That the names of those members were not to be made known until after the law for the extinguishment of the Indian claims had passed; and then requested this informant to prepare some writing which would compel the ostensible persons to surrender the unappropriated shares to the real supporters of the measure, after it should be effected. That one million of dollars were spoken of as the price of the lands; but that he deemed that sum by far too much; and as Congress would have to fix the price, they might make the terms such as to insure considerable emoluments to the purchasers. That a majority of the Senate had consented to give the plan their support, and within three of a majority of the House of Representatives. After much further conversation on the subject, which this informant thinks unnecessary to particularise, the said Randall promised to wait again on this informant, at his lodgings, on Tuesday evening, at seven o'clock, and introduce to this informant his Eastern associate.

The said Randall did not call at the appointed hour, and this informant did not see him again until Friday, the twenty-fifth of December, when the said Randall again called on this informant, and, after making an apology for not calling at the appointed hour of the preceding Tuesday, informed him at the door of his apartment, that his memorial to Congress would be ready to be presented on the next Monday; but as several gentlemen were in this informant's room at that time, the said Randall did not enter, and no further conversation was then had; since which time this informant has not seen the said Randall, until he was brought to the bar of the House of Representatives, in custody.

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This informant further saith, that he communicated the substance of every material conversation with the said Randall, to the Speaker of the House of Representatives, and to the several gentlemen before mentioned.

WILLIAM B. GILES.

JANUARY 1, 1796.

I, DANIEL BUCK, inform and say, that about ten days previous to my setting out on my journey to Congress, (which was on the thirtieth day of November last,) a stranger whom I now know to be Charles Whitney, in custody of the Sergeant-at-Arms, called at my office in Norwich, in the State of Vermont, introduced himself by the name of Whitney, and informed me that he had some business of importance which he wished to converse with me upon. I asked if he wished to be in private; he signified that he did, upon which my clerk withdrew; and the said Whitney proceeded to inform me that the business of which he wished to converse was of great importance to the public, as well as to the individuals immediately concerned. That it would come before Congress, but was so circumstanced as to render it necessary to make a previous statement to some of the members, that they might be able to explain to others; and the whole thereby be better prepared to judge upon the business; he declared he wished for nothing improper, and that he did not want that I should favor the plan unless I saw it to be consistent; for he said he wanted nothing but what was perfectly just and honorable, and was confident that if the matter could be understood, it would appear to be of great public utility. He then stated that he and his associates had discovered a large and immensely valuable tract of land, between or contiguous to lakes Erie, Huron, and Michigan, (if I mistake not the names,) which he said might be purchased of the Indians at a low rate: That this purchase would conciliate the affections, and secure the friendship of the hostile tribes: That he, the said Whitney, together with Ebenezer Allen, Doctor Randall, and a number of Canadian merchants at Detroit, had formed an association for the purpose of extinguishing the Indian title, and petitioning Congress for the pre-emption right to those lands; that if they succeeded, it was their intention immediately to make settlement on them: That those merchants had such influence with, and control over the Indians, that there would be no difficulty with them; and that such a settlement would be a barrier against the savages, and effectually secure peace to the United States: That those merchants were then employed in the business among the Indians; and that his partner, Doctor Randall, and his other associates, had such connexions, that there was a fair prospect of success. That it was not their intention, however, to engross all this property to themselves; but that it was to be divided into a number of shares, and that he and the said Randall had the disposal of them. That he, the said Whitney, was then directly from Philadelphia, and that it was agreed that Randall should dispose of a part amongst his friends, and the influential characters in the Southern States; that he, the said Whitney, was to distribute the other part amongst his, the said Whitney's friends, and the influential characters in the Eastern and Northern States. That they had already got a number engaged, but that the subscription was not full, and that I might become an adventurer if I wished for it; and as he conceived that I could make myself acquainted with the facts, they, the said associates, would be able so clearly to demonstrate the public utility of the measure, that there could be no impropriety in my being

concerned in the business, as I should thereby only connect my private interest with the public good; and while I was advancing the greatest interest of my country, might put two or three thousand dollars into my own pocket. Upon my suggesting, that, by a late Treaty, a peace was already concluded with the Indians, and that this was a business that might involve in it an important national question, as, by the Treaty, the right of purchasing lands of the Indians, was reserved to the United States, the said Whitney replied and said, that the Indians were greatly dissatisfied with the Treaty, and would not keep it; and that another war would be the certain consequence, unless other measures were adopted. He then renewed the protestation of the purity of his intentions, and said that he conceived that they (meaning himself and associates, as I understood him) should so clearly evince the utility of the plan, as that there could be no doubt of its propriety in the mind of any well wisher to his country; and said, that he thought it would be hard to suppose that members of Congress were, in consequence of their appointment, to be deprived of those advantages to acquire property which might be taken by others. The said Whitney showed me a plan of the country, and the articles of agreement between the associates, which appear to be the same as have been read in Congress: he also said much upon the magnitude of the object, in respect to the subscribers and partners; and though I cannot now repeat his expressions, yet I can truly assert, that I then clearly understood him, that if I would subscribe as a partner, my name might be kept secret, and after the grant was obtained, if I chose to relinquish my share in the lands, I might receive money in lieu of it; though no specified sum was mentioned, other than has already been stated; and the conversation finally broke off, upon my declaring that I would make no engagement in the business, until I was better informed as to the merits of the question.

DANIEL BUCK.

JANUARY 2, 1796.

It was then moved that Robert Randall should be brought to the bar of the House. He was brought in accordingly. Seats were placed for the Judge of the District of Pennsylvania, and the two counsellors for Randall, Mr. Lewis and Mr. Tilghman, jr. The informations given in by Mr. W. SMITH, Mr. MURRAY, and Mr. GILES, were read over, and the SPEAKER asked the prisoner, what he had to say in his defence? I am not guilty. You declare yourself not guilty? Yes. Have you any proof to cite that you are not guilty? No. Are you ready to answer?

Mr. Lewis then rose. He observed, that these declarations had been made in the absence of the prisoner, who, as he conceived, was entitled to have been present. His request was, that the informants might now be placed in a situation to be examined by the prisoner and his counsel, and that the information may now be given in the prisoner's hearing. The prisoner and his counsel were ordered to withdraw.

Mr. JEREMIAH SMITH made the following motion:

"That the prisoner be informed, that if he has any questions to propose to the informants, or other members of the House, he is at liberty to put them, [in the mode already prescribed,] and that they be sworn to

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answer such questions as shall be asked, and that the informants be sworn to the declarations just read."

The words in parenthesis were an amendment suggested by Mr. GILES. The resolution and amendment were adopted by the House, and the prisoner with his counsel were again brought to the bar. The resolution above stated was read to Randall.

Mr. W. SMITH, Mr. MURRAY, and Mr. GILES, were then sworn, standing up in their places: the oath being administered by the Judge.

Mr. Tilghman then observed, on the delicate situation in which the counsel stood, with which they were strongly impressed. The high character of the gentlemen who stood forth in support of the accusation, gentlemen whom Mr. T. had known personally for many years, with the odious nature of the crime charged on the prisoner, embarrassed them considerably; as they had, however, been permitted by the House to appear in this business, they were bound in duty to do every thing consistent with a fair and honorable defence. If Mr. T. were to declare his own opinion of the conduct of the prisoner, it would be thus, that his behaviour was highly improper and indelicate; but Mr. Randall denied having made any offer either of lands or money, as in fact he had none to give. The disposal of the lands depended entirely on the subsequent vote of Congress.

Mr. Lewis spoke a few words. The prisoner's defence was, that he denied any proposal of a corrupt nature. The members who favored the sale of the lands, were only to have their shares on the same terms, and on paying an equal share of the expenses, as the other partners.

Mr. W. SMITH was then examined upon that part of his information where he says, that those members who should be concerned with Randall, were to have shares of the lands. Mr. SMITH was asked whether the offer was that they were to be granted at an inferior rate? In reply, he understood it was to be on the same terms as other partners were to have them. Mr. GOODHUE proposed a query, whether the offer made by Mr. Randall was in order that Mr. SMITH might use his influence to forward the scheme in Congress? Mr. SMITH replied, that he certainly understood it so. The prisoner had all along referred to members of Congress, though he did not expressly name them. His phrase was, "for persons who would favor the scheme."

Mr. Tilghman then, through the SPEAKER, asked Mr. MURRAY, whether he understood he was to pay for his share of land as the other associates or not?

Mr. MURRAY.—I understood him as is explained in the declaration. At first I understood, that the members who should assist in getting the thing through, might then retire to their homes, and when the scheme was in activity they might come in on the same terms as the original associates. But afterwards, I understood from Randall that I might have a share if I would accept of it, and this I understood from the whole tenor of the latter part of his conversation. The shares set apart

were to be for acceptance as donations. I so understood him.

Mr. Tilghman.—Did he expressly say, that they were intended as donations, or did Mr. MURRAY collect this to be the man's meaning from a variety of circumstances?

Mr. MURRAY.—He did not say, if you will do so and so, I will give you so and so; his proposal, though more delicate, was as unequivocal as a direct offer. I so understood him.

Mr. HARPER asked Mr. MURRAY, whether Randall did not tell him, that if he did not like land, he should have money, and whether the money was not to be more than the value of the share of land?

Mr. MURRAY said, that from this part, and indeed the general tenor of the conversation, he did infer, that a donation was intended, and when he objected to land, the prisoner then said, if he did not choose to accept of a share in land, he might have cash in hand.

Mr. Lewis, counsel for the prisoner, asked Mr. MURRAY, whether he did not state to Randall his aversion to dealing in land, and whether Randall did not say that this need not be an objection, since the share might be sold, and then that he would have cash instead of land?

Mr. MURRAY. I did not so understand it.

Mr. HARPER wished Mr. MURRAY to relate, as nearly as possible, the words of the prisoner in this important part of the conversation.

Mr. MURRAY said, that immediately after it took place, and he had communicated it to his friends, he took notes of it. It stood in this manner: "I stated objections to land speculations as troublesome: Randall then said, if I did not choose land, I might have cash in hand."

Mr. Tilghman asked, what Mr. MURRAY did not, to get the man's whole secret from him, go beyond his views to draw him on?

Mr. MURRAY said, he affected to think well of the more sound part of the plan.

Mr. Tilghman asked whether Mr. MURRAY expressed to Randall when it was proposed to him to engage in the land scheme?

Mr. MURRAY. A strong repugnance to land speculations.

Mr. Lewis. Then it was, he said, that if it was not convenient for Mr. MURRAY to be concerned in a share in land, he might have it in money?

Mr. MURRAY. Yes.

Mr. S. SMITH was next sworn. There was here a motion made for adjourning.

Mr. Lewis stated that Mr. Tilghman and himself had never seen the prisoner until yesterday in the evening. They had been into Court until late on Saturday evening. They went yesterday to prison, and back again this morning. They had received a long written state of the case from Mr. Randall, but, from absolute want of time, they had not been able to read one third part of it. The motion to adjourn was negatived.

Mr. S. SMITH was then proceeding with his evidence when Mr. SEDGWICK rose. He considered it as unfair to examine Mr. SMITH in order to prove the information given by other gentlemen.

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It was totally inapplicable. The offences were as distinct as any two things could be.

Mr. BLOUNT moved to put this question, whether any conversation passed between Mr. S. SMITH and Randall, which had an appearance of intending to corrupt the integrity of members of this House.

Mr. SEDGWICK objected, that this was deviating from the original specific motion. Mr. GILES was of an opposite opinion. Mr. MADISON thought the motion proper, in the strictest sense. The charge was general; and the answer to the question might be of a nature to corroborate that general charge. After a few words from some other members, the motion was carried.

Mr. SMITH, of Maryland, then on oath stated in substance as follows:

That on the 9th or 10th, Randall whom he had known in Maryland, called on him and asked half an hour's conversation with him. He said he had a plan in view, that would be to the advantage of the United States, and turn to his own private emolument.

Randall informed Mr. S., that he was last year at New York, that he thence went to Detroit to explore the country on lakes Eric, &c., that he contracted an acquaintance with certain influential characters with whom he had formed an association to procure the lands in question. He mentioned the outlines of the plan and dwelt on the public advantages that would arise from it. He indirectly insinuated that gentlemen in Congress who chose to be interested in the plan might have a portion of the land in contemplation. He asked Mr. S. to fix a day when he should enter more particularly into a detail of the business. Mr. S., fixed Saturday following, and then retired into the room where his fellow lodger was, and told him that some great land business was on foot and that he believed he might make his fortune. On Sunday, Randall came with a map on which he explained the position of the land and expatiated on the richness of the soil. He detailed the particulars of the project which Mr. S. related as has been heretofore stated with some little variations. He enlarged upon the public advantages to the United States if the purchase was allowed. He said, he would be glad if Mr. S. would embark in the undertaking, and give the plan his countenance; but, that, if he did not choose to so do, it could be accomplished without his assistance, as a decided majority of both Houses were agreed to support it. Mr. S. asked him, whether in the Senate? he said, yes. He asked him for names, he objected to mentioning any. Randall explained, that members who were most active were to have larger shares, and such as only gave their assent, smaller; Mr. S. understood that he might have one of the larger. No money was offered as a temptation to engage, but he fully understood that every gentleman was to pay his full proportion of the price. He stated to Mr. S., that it would save the United States much in men and money to have the scheme accomplished, and added, that if Congress desired it, he could remove the Miami Indians to the other side of the lakes. Mr. S. asked

him what he proposed should be offered for the lands. He said, that would remain in the breasts of the gentlemen in Congress. Mr. S. asked whether one dollar an acre could be afforded, he objected to that as by far too much. Mr. S. mentioned twenty-five cents, that was too much. Mr. S. then suggested that he supposed two and a half cents were contemplated. Randall answered, that if Congress fixed this price it would be well so. He offered no direct bribe to Mr. S., but proposed to take such members into the scheme at first cost as chose to embark in it. Mr. S. asked him who was to offer his memorial. He mentioned a gentleman of great weight in the House.

Mr. SMITH, of South Carolina, asked the date of this conversation.

Mr. SMITH, of Maryland, answered, on the Sunday following the 10th, which must have been the 13th.

Mr. Lewis, through the SPEAKER, asked Mr. S., of Maryland, whether Randall had not said, that he had actually a majority in favor of his scheme; or, that he expected to get a majority?

Mr. SMITH, of Maryland, understood that he had a majority, and on this ground, he said to Mr. S. that his co-operation was not absolutely necessary.

The prisoner was remanded and the House adjourned.

TUESDAY, January 5.

CASE OF ROBERT RANDALL.

After disposing of the morning business—

Robert Randall was then brought to the bar, attended by his two counsel; the Judge of the District of Pennsylvania likewise took his seat, as yesterday, at the Clerk's table. The SPEAKER then addressed the prisoner as follows: "Robert Randall, this is the day and hour, to which your farther examination was postponed; you are now at liberty to proceed with your defence."

Mr. GILES then moved that Mr. CHRISTIE should be sworn. This was done. The member then stated that he had been at Philadelphia, about the month of October last. He met with Mr. Randall, who made up to him, and observed that he had this summer been in Canada. He had missed the object for which he went; but he had met with another which he thought would prove advantageous. He at first advised Mr. Randall to apply to the Secretary of State. Mr. Randolph had just then resigned his office; and no other person was appointed in his stead. Mr. C. then advised him to lay the affair before the PRESIDENT. When he came back to town at the sitting down of Congress, Randall came again to him, and said that by good advice he had altered his plan. He complained that Mr. C. was the only member who had not been ready to assist him. A considerable majority of the House of Representatives were secured to the scheme. Mr. C. said, that he never would advise Congress to sell their lands under a dollar per acre; and as Mr. Randall wanted the lands so much cheaper, he must in the course of his duty oppose the plan. Mr. C. inquired who were his advisers. He answered, that Mr. Whit-

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ney had told him that Mr. SEDGWICK recommended this way of proceeding, and was to draw up a memorial to be laid before the House upon the subject.

Mr. SEDGWICK finding his name thus unexpectedly introduced, wished to be allowed to give oath in order that he should tell all he knew.

The oath was administered to Mr. SEDGWICK, who gave information to the following effect: He had never in his life seen Randall, till he was produced at the bar. Whitney he had seen two or three times. The Mr. Jones mentioned by Whitney, in his declaration, lives within about thirty-four miles of Mr. SEDGWICK's house. Whitney, with Mr. Jones, came, a considerable time ago, to him one morning, while he was at breakfast. They asked his opinion; which was, that Government would not sell any lands, till the Indian claim was first extinguished. Mr. Jones endeavored to convince Mr. SEDGWICK of the benefits which would result to the United States from this sale. Mr. SEDGWICK accompanied them to the door of his house, where Mr. Jones asked him whether there would be anything improper in a member of the Legislature being concerned in such a purchase? Mr. SEDGWICK said, that this would depend entirely on the mode of application. If it was to the Land Office, there would be nothing wrong in it; if to Congress, then it would be a man making a bargain with himself. Whitney, since Mr. SEDGWICK came to town, had called two or three times on him. He got his servant, for more than once, to deny him, as he was busy. Once, however, he did see him; the first question of Mr. SEDGWICK was, from what State did he come? He said he resided in Vermont. He then spoke of the matter in a general way; and Mr. SEDGWICK, whose object it was to shake him off, advised his calling on Mr. BUCK, a member from that State, as it would be more proper to call on him. Mr. SEDGWICK believed that he was more teased with applications of this private kind than any member in the House. During the conference with Whitney, he did not remember that Randall's name was ever introduced. Mr. SEDGWICK heard, with astonishment, the name of Colonel Pepune mentioned. He lived opposite to Mr. SEDGWICK's house, in the town of Stockbridge. He rode down from that place to New York, along with Mr. SEDGWICK, and never spoke one word of the matter to him.

Randall had, among other stories, told Mr. SAMUEL SMITH that Mr. WM. SMITH *should* bring forward this land business, in the House. He positively said so to Mr. S. SMITH on the 13th of December, and it would be proved that he had never exchanged a word with Mr. W. SMITH, nor ever seen him till the 22d of that month, viz: *about nine days after*. This is the substance of a short explanation which took place between some of the members, after Mr. SEDGWICK had ended his declaration. Mr. W. SMITH then asked Randall, whether it was not true, that he spoke to Mr. SAMUEL SMITH before he spoke to himself? Mr. Tilghman, in reply, said that he was authorized to answer in the affirmative. This puts to rest the

story related by Randall to the member from Baltimore.

The testimony being now closed, Mr. Tilghman asked leave to make some remarks in defence of the prisoner. He recapitulated the charges. They divided into two heads. The first, was an attempt to corrupt members. The second, was his having said that thirty members of the House of Representatives had engaged to favor his scheme. If the first head was not proved in the fullest manner, then it would be entirely improper to punish the prisoner at all; for he is entitled to the strictest justice.

Mr. T. began with the charge of corruption, which led him to take a view of the circumstances that gave rise to this subject, the journey of Randall to Canada, last Summer, the association for buying the Peninsula between Lakes Erie, Huron, and Michigan, the proposal of extinguishing the Indian claim, the scheme of forty-one shares, with many other particulars. In the plan itself, there was nothing exceptionable, provided that it was fairly pursued. It was at first view clear, that other assistance would be wanted, besides the persons subscribing the association. Five or six private individuals were altogether unequal to grasping so immense an object. Accordingly, Randall first applied to Mr. CHRISTIE. From the declaration of that gentleman, it appeared that no offer was made to him either of land or money, or any improper overture, for Mr. CHRISTIE had so little suspicion of foul play, that he afterwards gave a letter of introduction to another member to explain the subject. Randall had next applied successively to Mr. SAMUEL SMITH, to Mr. GILES, Mr. WILLIAM SMITH, and Mr. MURRAY. From probability, independent of the proof which Mr. T. was about to examine, he argued that nobody but a madman would have attempted to bribe five gentlemen of respectable characters, and of independent fortunes. What was the language of the prisoner to Mr. SAMUEL SMITH: "If you, as a member of Congress, see no impropriety in being concerned, we shall willingly accept you; but, if you do not think it right, we do not ask your aid, for we can do without you." These were the identical words of Randall, as attested by the honorable member to whom they were addressed. There was no guilt here. It was the genuine language of innocence. Mr. SAMUEL SMITH said, that Randall had told him that Mr. WILLIAM SMITH *should* bring the matter forward. By this, Randall plainly signified, that he *expected* Mr. WILLIAM SMITH to do so, and Mr. S. SMITH had mistaken the supposition for an affirmation. The fourth gentleman, in the order of application, was Mr. WILLIAM SMITH; and there was not one of the first four gentlemen who said that any direct proposal was made to him. They only understood and inferred it. But a man is not to be convicted on the inferences, impressions, and ideas, of witnesses. It would, in a Court of Law, cost Mr. T. but a very few words, indeed, to establish this point. A witness was only to relate facts. The jury were to make inferences, and form conclusions. Every one of the four gentlemen had expressly declared

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that there was no explicit offer made to him. Had Randall said: "Give me your vote, and you shall have so many dollars or so many acres for it," the accusation of bribery would have been fully established. But we find no such thing. The offer was improper, indelicate, and indecent in the highest degree, but no direct offer was made, and none could be made, till the law passed. The lands were, by the lowest estimate, to cost five hundred thousand dollars of purchase money, besides the expense of extinguishing the Indian claim, and many other previous charges, before anything could be made of the speculation. Thus, each of the forty-one shares would require, in advance, a very large sum of money. There might even be a loss upon the business, instead of a gain. After adverting to the evidence of the four first gentlemen, Mr. T. came next to Mr. MURRAY. He seems to give the most heavy accusation against the prisoner; but Mr. T. was ready to rest the cause of his client, his good name, or his infamy, on proving that Mr. MURRAY had mistaken his meaning. In the first place, by the account of that gentleman, twenty-four shares out of the forty-one, were to be at the *acceptance* of members, which had been conceived as if they were to be given gratuitously. The donation was to come out of these thirty-six shares, reserved for Randall and Whitney; and it was too immense, in proportion to the whole shares, to have admitted any chance of profit to these two people, on the twelve remaining shares. For this inference, Mr. T. appealed to the candor and judgment of every gentleman within his hearing. The thing being thus, in its own nature, incredible, would, of course, require the highest degree of evidence to support it. It had been proved that no direct offer of this had been made to other members. They understood that these shares were to be paid for, in proportion, along with the other partners, in the sale. This was another reason for thinking that the member was mistaken. MESSRS. WILLIAM and SAMUEL SMITH, and Mr. GILES, had unanimously declared, that they were to pay for their shares. Upon the question being put to Mr. W. SMITH, he answered: "I understood that those should pay upon the footing of the original associators." Mr. GILES, on this point, had replied thus: "No direct offer was made him in land. The proposition was general, as related to members of Congress, who would favor the scheme. He considered himself as included; but, then, all were to come in on paying their proportions." Again, Mr. SAMUEL SMITH declared, that Randall "offered no direct bribe to him, but proposed to take into the scheme, at first cost, such members as chose to embark in it." These three testimonies clearly established, that Randall had not thought of any gratuitous offer to these gentlemen. Mr. T. could account for the mistake of Mr. MURRAY. He had heard from Mr. W. SMITH of the man, and his proposals; and that they were supposed to be of a corrupt nature. While his mind was filled with these impressions, Randall waited on him, but had so little dread of his being upon a criminal errand, that he made no scruple to begin the subject before Mr. HENRY, a Senator

who happened accidentally to be in the room. Mr. MURRAY took him into a private room, for the purpose of sifting him; and there it was that he disclosed the unsound part of his scheme.

By the word *accept*, Mr. T. insisted that, while Mr. MURRAY understood a donation, Randall could only mean a share, as offered to other members. Where had Randall cash in hand to have laid down? [Randall was not long since insolvent] Now, could he give perhaps twenty or thirty thousand dollars in hand, for the vote of a member? The word *accept*, as coming from Randall, only meant, "you shall have a share on the same terms as others; and if you do not choose to have a share, we will sell your share of the lands for you, and you may get the profit made by the sale." Here Mr. T. quitted the first head of the charge, by expressing his hopes that no satisfactory proofs of direct bribery had been offered. He was happy to live in a country whose legislators possessed so much delicacy. The second head of the charge was, Randall having said that thirty members of the House of Representatives were to favor his scheme. The Counsel apprehended that this was no breach of privilege. He turned to the laws of the United States, and read over every passage regarding the privileges of the House and its members. Nothing was to be found which could even remotely apply to this kind of conversation. He then went into the subject of practice in the English House of Commons. There were no journals further back than the reign of Edward VI. Blackstone says, that Parliament never chose to define its privileges, lest afterwards a new case might arise that did not come within their rules, and then their ground against the offender might be foreclosed. Caution, in that respect, might be necessary in England, but not in the United States, where the House of Representatives are the darling of the people. They have nothing to fear as to any undue advantage being taken of a defect in their rules. Besides, it by no means follows that, because the privileges of the House of Commons extend to a certain degree, this country will bear the same extent of privileges in their Representatives. The idea of the Counsel was, that the House had the privilege essential to its existence to defend itself from any insult from within or from without, but not further. The Constitution says nothing of privilege, that reaches to the case of the prisoner; and one of the amendments to it, says, that the people shall be understood to have retained whatever they have not granted. It follows, then, that since what has been expressly granted reaches not to Randall, that it is retained. It is in contemplation to prosecute this man in a Court of Law. With what feelings must he be supposed to go there, if he shall be previously condemned in this House? A man would thus in fact be convicted in the public view, before his trial began. The Counsel then read a number of precedents from English books of law, to prove that, even for a direct offer of bribery to a member of Parliament, the prisoner would have been remitted to the Attorney General, and prosecuted with the usual and indispensable solemnities, in a

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Court of Justice. Mr. T. said that he would next venture to ask what kind of a Court of Law is this? The members are not upon oath, while they are at once parties, judges, and witnesses. Mr. T. would have thought it more delicate for the House to leave the prisoner to a trial in the common form. He may be acquitted by a jury, after being condemned here, which may produce disagreeable feelings in the public mind. It is, in reality, trying a prisoner twice for the same offence, and making him hazard a double sentence. All this is inconsistent with every idea of justice. The offence was punishable at Common Law. What good reason can then be given for trying it here? The safety of the House is not in danger. This is not a case, wherein they ought to insist on *privilege*. A thousand reasons might be adduced, besides those stated by the Counsel, why it was inexpedient to bring the subject here. The privileges of an English Parliament rested on immemorial usage; those of this House, on a written Constitution, which had considerably narrowed them, in comparison with those of British Parliaments. The charge of having thirty or forty members engaged to support a scheme is not a breach of privilege. Mr. T. argued that, from the very face of the charge, as worded by the House, no crime arises. Are the House to bridle conversations without doors? When a bill comes into the House, is it not common for the people to say that such a law will pass, or it will not pass? Are they not at liberty to conjecture what members will vote for it, or against it? Randall's story about thirty members comes within this description. Are the House to lock up the mouths of people? Mr. T. closed, by urging that, as Randall was to be tried by a Court of Law, as he had been taken out of the hands of an officer belonging to a Court of Law, upon what authority the Counsel did not see, the best thing which could be done, was to remit him to the ordinary form of trial.

Mr. Lewis then rose. He read the charge, as adduced by the House, and agreed that this was not bribery, but a wild land-jobbing scheme. He objected to the having admitted subsequent depositions and informations in support of a charge previously made and specified. This alludes to the subsequent evidence given by some members after the prisoner had received a copy of the charge. He contended that the evidence of Mr. SAMUEL SMITH, given subsequently, had no connexion with the original charge, and should not have been admitted in corroboration of it. Mr. L. then took up the second point of the charge, that the prisoner had said thirty or forty members would favor his scheme. The saying so was no offence at all; for the thing itself, the agreeing to support a particular scheme, was consistent with perfect innocence. He trusted that the prisoner would be as safe in this House as anywhere else; that his unalienable rights would be as sacredly watched; for it would be a dreadful reflection if that House were less delicate in administering justice than the Courts of Law. He hoped that the House would adhere to these fundamental rules of

trial, which had stood the test of ages. He then read some of the articles of the bond between the original partners, to show the absurdity of supposing that bribery ever could have been intended. It was impossible to have ever bribed members in the way alleged by Mr. MURRAY. He stated that, out of forty-one shares, Whitney and Randall were to have thirty-six, out of which they were to give away twenty-four; a proportion in itself incredible, inasmuch as the remaining twelve shares would, so far from making their fortunes, have cost them more than they were worth. Mr. L. then argued on the offer to Mr. MURRAY, on the same ground as the former Counsel. The plain history of the affair was this: A number of people wanted the lands. They thought that it would accelerate their scheme to get members of Congress to embark in it, and offered them, for this effect, a share in the lands, on paying an equal share of the expenses, and with a promise of concealing their names. "If the gentlemen," said Mr. L. "to whom this application was made, *had kicked my client out of the room*, they would have served him right; and there, I think, that the matter ought to have ended." The British Parliament send people attempting bribery to the Attorney General. They send people to a trial by jury. Mr. L. denied that any part of this offence came within the definition of corruption, or the reach of law. He had no conception that it could be punished upon any legal principle whatever. Besides, there was nothing in the history of privileges, like thus dragging a man from the jurisdiction of the Circuit Court, by whom he had been apprehended, and whose prisoner he was. Again, there could be a breach of privilege only, if the proposal regarded a bill actually before the House. It never could arise from a thing not in existence. All the books which Mr. L. had consulted, spoke only of bribery, about a bill or lawsuit actually on hand. It was hazardous to quote precedents from an English Parliament. Its privileges had no limits, so that some writers on law called it *omnipotent*. Mr. L. admitted that the House had the essential power of punishing violence, or open insult, which did not reach the case before them. He would not further intrude on the time of the House, by apologising for the time which he had taken up already. He trusted that a power of creating offences would not be assumed; and that a thing which is not illegal, will not be declared punishable.

Mr. Lewis here sat down. The further defence of the prisoner was postponed till to-morrow, (Wednesday,) at twelve o'clock.

And then the House adjourned.

WEDNESDAY, January 6.

CASE OF ROBERT RANDALL.

Mr. SEDGWICK laid before the House some additions to his evidence, delivered yesterday. He gave in a written copy of the whole, and wished that it might be added to the declaration already made. The paper was read, and, on motion, ordered to be inserted in the Journals. Mr. SED-

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WICK said he had yesterday mentioned Col. Pepune being in Philadelphia, but he had not seen him. He has since done so. The Colonel lodges at the sign of the Drover, in Third street, and is ready, when called upon by the House, to tell every circumstance which he knows about the transaction of Randall or Whitney.

The following is Mr. SEDGWICK's written testimony:

"The informant, Theodore Sedgwick, a member of the House of Representatives of the United States, declares, that, some time before he left the place of his residence, in Massachusetts, one Israel Jones, Esq., of Adams, in that State, waited on him and introduced to him a man whom he now knows by the name of Charles Whitney, of the State of Vermont. That Mr. Jones is a man of respectable character, a magistrate, a member of the State Legislature, (as the informant believes,) and a trustee of the Corporation of Williams College. That Mr. Jones informed the informant that he, with others, had in contemplation an application to Congress for a grant of a tract of country lying between the Lakes Huron, Michigan, and Erie. Considerations of a public nature having been stated and enlarged upon, the opinion of the informant was requested relative to the propriety and success of the proposed application. He answered, in substance, that he believed it was to be doubted whether the Legislature would undertake actually to contract for any of the vacant public lands, and that the doubt was still stronger respecting these lands, the Indian claim to which had not been previously extinguished. He stated to Mr. Jones that, by reason of sickness in his family, it was not probable he should attend the next session of Congress; at all events, however, he advised Mr. Jones not to make an early application, as it was probable the subject of disposing of the public lands would occupy the attention of Congress during the then ensuing session; and that, by the delay Mr. Jones could form a more correct judgment of the course which it would be most eligible for him to pursue relative to this subject. That, while the informant was waiting on Mr. Jones to the door, at his departure, Mr. Jones asked him if there could be any impropriety in a member of Congress being concerned in an application for a grant of lands? The informant answered, that it would depend on the circumstances under which the application was made: proper, if the application was made to a Land Office, but otherwise, if made to the Legislature; because, in the latter case, it would be for a man to contract with himself. To this answer Mr. Jones gave an explicit assent. That the informant never, at any time, before or afterwards, to his remembrance, saw the said Whitney, until he saw him in this city, during the present session. That the informant came from his own home to New York in company with Colonel Pepune, stated by the said Whitney as one of his associates. That the informant hath been informed, and believes that the said Pepune is now in this city, but that he had never spoken to the informant on the subject of the said land speculation. That, not long after the arrival of the informant in this city, the said Whitney one morning waited on him, and stated to him an intended memorial respecting the tract of land aforesaid, and urged on the consideration of the informant the motives of a public nature for a grant thereof. That the informant inquired of the said Whitney to what State he belonged? and being answered, to Vermont, he recommended to him to request the Re-

presentatives of that State to present the memorial. That the said Whitney requested the informant to peruse his memorial, when it should be prepared, which he undertook was not then the case. That he answered, according to his best recollection, that, whenever he had leisure he should be willing to do it; or to that effect. That the whole time of the interview he believes did not exceed six, he is very confident could not exceed ten, minutes. That twice afterwards the informant's servant informed him that the said Whitney wished to see him, and that he caused himself to be denied; and the informant is very confident he never undertook either to draft or present any memorial for the said Whitney.

"On the morning of the twenty-eighth of December, Mr. Smith, of South Carolina, informed the informant of what he afterwards stated in evidence to the House respecting Robert Randall. The informant advised Mr. Smith, as soon as possible, to make the same known to the House of Representatives, which Mr. Smith informed the informant he had determined to do; and the informant, having previously advised the said Whitney to apply to the Representatives of Vermont, he thought it his duty, and he accordingly took the earliest opportunity to request Mr. Smith of that State, to avoid presenting any memorial with which he might be intrusted for a grant of land, and desired him to make the same request to Mr. Buck, the other member from the same State.

"The informant further declares, that he never, to his remembrance, saw Robert Randall, till he saw him at the bar of the House.

"THEODORE SEDGWICK."

Mr. W. SMITH submitted, whether it would be proper to proceed any farther in the case of Randall, till some hearing had been given to Whitney.

Mr. RUTHERFORD was happy to find the business drawing to a conclusion, and that the character of the servants of the people would come through it pure, in the view of every unbiassed mind. The grounds of the whole matter were plain enough. Some British traders wanted to secure the lands between the lakes to themselves, and the traffic with the Indians. They made dupes of these two men; and then the latter attempted to dupe the Representatives of the people. These circumstances were in the nature of things. They might be traced to that immense keenness for landed speculation so common in America. Randall had run the gauntlet very well. He had been through the hands of the civil officers. He had also been in the hands of another set of gentlemen, who, as Mr. RUTHERFORD judged, had conducted themselves with great propriety. The character of the House was fairly cleared, at which Mr. R. was happy. He wished Randall to be now sent for, to receive a reprimand from the SPEAKER, and then be sent back to a short confinement, perhaps for a day or two. Then let him go, without further loss of time. Some people have thought that it was wrong to have pushed the inquiry. This opinion was erroneous; but now, since we have got honorably over with it, let the man be set off.

It was then moved by a member that the case of Randall should be postponed. After some con-

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version, as to the point of order, the motion was negatived.

Mr. HARPER then read two resolutions. Of the first, the following is the substance:

"Resolved, That any attempt to influence the conduct of this House, or its members, on subjects appertaining to their Legislative functions, by motives other than the public advantage, is an high contempt of this House, and a breach of its privileges."

The second resolution was, in substance, that Randall having committed such an offence, was guilty of such a contempt, &c.

Mr. HARPER thought it proper, before deciding as to Randall, to lay down certain principles, and decide whether the offence was in itself criminal or not, before determining the conduct of the prisoner.

Mr. KITCHELL thought these resolutions unnecessary. The only thing before the House was to call on the prisoner, and pronounce him either innocent or guilty.

Mr. HARPER, in defence of his resolutions, said, that one misfortune attending privileges was, that they could not be exactly defined; but as far as they could be ascertained, it was the business of the House to do so. If this offence is a breach of privilege, we are entitled to declare it such, that the people of the United States may be informed that it is so.

Mr. W. SMITH could not conceive how any member would vote against this first resolution. If we refuse to say that the act itself is a crime, how can we condemn Randall as criminal? We are, in every sense of the word, bound to vote for the proposition. We have declared the attempt of Randall to be an high offence and contempt. If any member thinks it not so, then to be sure, he will vote against it. Mr. SMITH said that Legislative bodies had frequently, while a prisoner was on trial before them, laid down rules to guide them, previous to their pronouncing sentence. A former member had suggested that it was better to make the resolution a preamble to the sentence, and introduce it with a *whereas*. As it stands at present, it is agreeable to what had been done already.

Mr. NICHOLAS hoped that members were not to be bound by anything yet done. At the first embarking of the House in this affair, he had felt doubts. His scruples had gradually augmented, and he was now of opinion that Randall should not have been meddled with at all in the present way. The right of privilege had been given up, unless in cases of absolute necessity. He did not think that any resolution had yet passed the House, upon due consideration, whether they had a right to proceed or not. Mr. NICHOLAS recommended lenity, rather than a parade of integrity, where there was no ground of suspicion—a parade which would not have been made if there had been any real danger.

Mr. WILLIAMS thought the resolutions altogether unnecessary. The principle is already entered on the Journals. All that the House have to do is to declare Randall guilty or not.

Mr. HILLHOUSE agreed with Mr. WILLIAMS, but

he was astonished at the doctrine held up by the gentleman from Virginia. We had been told yesterday, at the bar, that the offence is not punishable by the common law. We are not to do so by privilege. The consequence is, that an attempt to corrupt members cannot be punished at all. It would not be proper to tell this to the public. Any body may then come here and bid for votes.

Mr. HILLHOUSE thought that the counsel yesterday had fairly given up the point, for they admitted that improper violence without doors was a breach of privilege. Mr. H. argued that this was as great a violence as could be. He was for inflicting a punishment.

Mr. LIVINGSTON thought the wording of the first clause too broad. Any member spoken to without doors might come into the House and complain of a breach of privilege on trifling grounds.

Mr. GILES would not at present enter into the question whether there had been a breach of privilege or not. From anything yet seen, he was doubtful. He was against the preamble. Privilege was of an insinuating nature. Mr. LIVINGSTON had taken up a thought which occurred to Mr. GILES. Any man meeting on the street a member of this House, may say to him, "Sir, by voting for such a thing in the House, you will destroy your popularity in your district." This argument was not on motives of public good, and a member might by this resolution be warranted to come into the House and complain of it as a breach of privilege. He wished for the previous question, which was taken, and by a great majority the resolution was negatived.

Mr. LIVINGSTON then read two resolutions. Their tenor was, that it appears to this House that Robert Randall has been guilty of a contempt and a breach of the privileges of this House, by attempting to corrupt the integrity of its members, in the manner laid to his charge, and that Randall should be called up to the bar, reprimanded by the SPEAKER, and recommitted to custody, till further orders from this House.

On the first resolution the yeas and nays were called for—yeas 78, nays 17.

After some conversation, the second resolution was likewise agreed to.

Randall was then brought to the bar, and in a few words reprimanded by the SPEAKER. To call his offence indiscretion, impropriety, or indelicacy, was too mild a name. His conduct was *crime*. His apparent ignorance of the nature and extent of his guilt had induced the House to be more indulgent than they otherwise would have been. The SPEAKER informed him that he was recommitted to custody till further orders from the House.

Mr. CHRISTIE then asked leave to have his written declaration entered in the Journals, which was agreed to in the words following:

"The declaration of Gabriel Christie is, that some time in the month of October or November last, this informant was in Philadelphia, when he saw Robert Randall, who had, as he informed this informant, just returned from Canada, where he had been disappointed

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in the business he went to that country on; but he, Randall, informed this informant that, on his way home, he had called at Detroit, where he had spent some time, and had, he believed, entered into an association, to which, if he got the consent of the Government of the United States, would be a considerable advantage to him, and those who chose to associate with him, provided he liked the speculation. He then informed this informant that he had associated with a number of influential persons at Detroit for the purpose of obtaining the pre-emption right to a large tract of country within the territory of the United States, and produced to this informant the original association. After this informant had heard all that Randall had to communicate to him, this informant told Randall that he considered his scheme as a wild-goose one, and that this informant would not have any concern in it. Randall then requested this informant to give him his opinion in what manner he, Randall, ought to proceed. This informant told him that the most proper person to apply to was Mr. Randolph, the late Secretary of State, and if he, Randall, thought proper, this informant would inform Mr. Randolph of it, and get his advice; which Randall agreed to. This informant then went to Mr. Randolph, and gave him all the information that the informant had received from Randall. After considering the business for some time, Mr. Randolph advised that an application should be made to the President of the United States; which advice the informant gave to Randall, who seemed, at that time, fully satisfied with the proposal, and requested the informant to introduce him to the President for that purpose; but, as this informant was going out of town in a day or two, he told Randall that he would introduce him to the President on his return to Congress. When the informant came to Philadelphia, in December, he found Randall in the city; and, after asking Randall what he had done in his business, and whether he still meant to apply to the President, Randall then informed the informant that his friend and associate, Mr. Whitney, had arrived in Philadelphia, and that, upon consulting with him, they came to a determination not to apply to the President, as he heretofore had agreed, but had determined to present a memorial to the Legislature for a grant of the said land. This informant told Randall that he disapproved of this mode, and asked Randall who had advised him to it. Randall then informed the informant that the said Whitney had informed him that he had consulted with a number of the Eastern members of Congress, and in particular with Mr. Sedgwick, who had advised this mode of proceeding. Randall also informed this informant that Mr. Sedgwick had agreed to draw up and present his memorial. This informant then informed Randall that, by this mode of proceeding, he had put it out of this informant's power to be concerned with him, if he thought ever so well of it. Randall asked the informant the reason. The informant answered, that it would be improper in any member of Congress to be concerned in anything that he was to vote on. This informant was not able to impress Randall with the propriety of his remark. The informant never understood that Mr. Sedgwick was, in any manner, concerned with Randall or his associates; but that he, Mr. Sedgwick, thought the thing a public benefit, and would support it. That Randall never informed this informant that any of the members of Congress were concerned, but that a majority of them thought favorably of the plan, and would support it. In all the conversation the informant had with Randall, this informant told him that he could not expect this informant's assistance, as the

informant would never agree to sell any of the lands of the United States for less than a dollar per acre. Randall then informed the informant, before a witness, that it was strange that the informant was the only person in Congress that he had applied to but what seemed to think favorably of his plan. The informant told Randall that his opinion was fixed, and still advised his application to the President, which Randall declined.

"G. CHRISTIE.

"January 5, 1796."

And then the House adjourned.

THURSDAY, January 7.

CASE OF CHARLES WHITNEY.

After disposing of sundry petitions—

MR. SEDGWICK called for the order of the day, viz: the farther proceeding in the hearing of Charles Whitney. This was agreed to.

MR. GILES, while Mr. Whitney was sent for, rose, and said that he was strongly impressed with the propriety of paying honorably every man to whom the United States were in arrears for military service. He should therefore lay on the table a resolution on which he did not wish immediately to take the sense of the House. The resolution was then read, and, in substance, proposes that the proper officers be directed to lay before this House a list of all officers and soldiers of the late Continental Army and Navy who appear, on the books of the United States, to have arrears due to them, with a statement of the respective amounts.

MR. Whitney was now brought in. The SPEAKER addressed him as follows: "Charles Whitney, the information lodged against you on the Journals of the House will now be read to you by the Clerk." This was accordingly done.

MR. Whitney was next asked at what time he would be ready to proceed with his defence? He replied that he thought he could be ready to go on just now, if he had counsel. If he could get them to-morrow, he should be glad to go on then, in order to get the thing over. If counsel could not be got, he would request a delay till Monday. He was sure Mr. BUCK had mistaken his meaning. He was told that he would be called on again to-morrow, and if he had not been able to obtain counsel then, there was a probability of his being allowed a delay till Monday.

MR. BOVARS stated the hardship of obliging the prisoner to fee counsel; no probability existing of any thing farther being brought against him. There was but little in the charge, admitting it to be true. MR. B. made a distinction of the conversation having passed in Vermont, not in Philadelphia. It was before MR. BUCK came to Congress at all.

MR. GILES had yesterday expressed but little satisfaction at the mode of conducting this business, nor had his satisfaction been since augmented by farther reflection. He read a motion, which was seconded, for dismissing Whitney immediately. Admitting all which stood charged, MR. GILES did

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not consider it as containing any breach of privilege.

Mr. W. SMITH regarded this resolution as premature; he wished to have the regular forms of trial gone through, as in the other case. When the trial was finished, the House could then decide on the guilt or innocence of the prisoner. He thought that Mr. BUCK ought to be sworn. When the offer was made in Vermont, he was looked upon as a member of Congress, and the temptation which had been held out to him was a contempt of the House. There was not yet a sufficient explanation to justify his discharge.

Mr. HILLHOUSE supposed corruption to be equally criminal in Vermont as in Philadelphia. It would commit the dignity of the House to say that we have kept a man in jail for a week, and then have dismissed him without a trial. It implies that we never had any right to arrest him. Mr. H. had not formed his ultimate opinion on the subject. He wished the trial to be gone through, and then, if the prisoner proved innocent, dismiss him. He had made application to a member in this town, besides Mr. BUCK in Vermont. [Mr. GOODHUE, on whom Mr. Whitney called, after he came to Philadelphia.]

Mr. BUCK objected to the immediate dismissal of Whitney. It struck him as an impropriety to dismiss the prisoner by an unqualified resolution. It would be better to state, as a reason, that the attempt to corrupt the integrity of a member had happened in Vermont, before the sitting down of Congress. Then let the question come forward and be tried.

Mr. SEDGWICK had, more than was usual with him, avoided speaking on this question. He early entertained an idea that an application to a member of Congress, before it sat, was not a breach of privilege. It was an unfortunate circumstance when the same persons were to be both judges and parties. People were apt to get into a passion when one came to them and said, "I consider you as rascals, and I want to purchase a portion of your rascality."

Mr. MADISON said, it appeared to him that the House could have no privileges, unless what arises from the necessity of the case. He differed from the opinion formed by the House, but he wished them to act in conformity to their own principle. The object at present before the House is, to keep its members free from corruption. Whether a proposal is made in town or country, if we dismiss names and circumstances, and look only to the substance of the thing, there is no distinction between the two cases.

Mr. PAGE said, that if the motion for dismissing had come on a week ago, he would have voted for it. He wished to get rid of the matter as fast as possible. He alluded, though not in direct terms, to the idea of Mr. LEWIS, that it would have been better to have kicked some people down stairs, than to have made them objects of prosecution.

Mr. HARPER considered it as a material distinction between a member being attacked and beaten, for example, in Philadelphia, during his attend-

ance on Congress, and the same accident occurring during the recess, in a distant part of the country. It was admitted that the doctrine of privilege violated the rights of the people, and could be justified only upon the plea of necessity: it being so liable to misapprehension and misconception, he wished to see as little of it as possible. He gave his hearty concurrence to the resolution of Mr. GILES. He had been desirous of seeing such a thing brought forward. He adverted to the delicate situation of the House, at once accusers, judges, and witnesses.

Mr. GALLATIN spoke a few words in favor of the motion.

Mr. ISAAC SMITH was persuaded that the House possesses privileges, and has a right to exert them. They are pointed out by the Constitution. Mr. S. wished to dismiss the prisoner. It had been said that dismissing him without a trial, after having apprehended and confined him, would be casting a reflection on the House. No such thing! There existed probable grounds of suspicion. We have waited full time, and no proof has come forward. Then let him go, and the sooner that we do it the better.

When Mr. ISAAC SMITH sat down, Mr. GILES rose to offer a resolution, in place of his former one:

"Resolved, That it appears to this House that the information lodged against Charles Whitney does not amount to a breach of the privileges of this House, and that he therefore be discharged from custody."

Mr. FREEMAN voted yesterday in a minority for dismissing Randall. He would this day vote for discharging Whitney. As to the dignity of the House, even an outrage upon it could be as well punished by a Justice of the Peace as by ourselves. He stated the extreme difficulty of adopting, in practice, the doctrine laid down, that an improper offer made to a member when in the country, was to be punished as a breach of privilege. A member, suppose from Georgia, comes here, and tells a story of somebody in that State who has made him an unsuitable proposal: the Sergeant-at-Arms is instantly despatched a thousand miles to bring this person to the bar for contempt of the House. What kind of a business would this be?

Mr. HARTLEY thought the resolution last offered by Mr. GILES had too much narrowed the ground of dismissing Whitney. He had been taken up as an associate with Randall. The charge had not been properly supported by evidence. Dismiss him, and let the want of proof be your reason for it. Mr. H. cordially agreed with the substance of the resolution, but he objected to the wording of it.

Mr. NATHANIEL SMITH believed that the great difference in opinion on this question arose from the different grounds on which the doctrine of privilege had been placed. Some gentlemen had supposed the only ground for the privilege contended for was to secure the members from actual bribery. Of course they supposed that equal danger might occur before or after leaving their residence in

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the country. Mr. SMITH contended that this idea placed privilege on a wrong ground. This idea would be disgraceful to the members. He would not admit that any gentleman in the House would take a bribe, that there was real danger of it, or that there could be a necessity to prevent it. Personally, he held such an imputation in the highest contempt. He imagined that the question ought to be set on a very different ground. If the opinion which he would now state was correct, it would evince the propriety of convicting Randall yesterday, and of acquitting Whitney to-day. The ground of privilege he took to be this: the indignity offered to the House through the medium of its members. It might be asked, why members ought to be privileged from insults while sitting as a deliberative body? He had several answers. In the first place, members ought to be able to proceed with due deliberation. They could not, as Mr. S. conceived, do so, if subject to be insulted with the offer of bribes, or with other indignities, every time that they went without the bar. Mr. S. had a second reason why members should not, while acting as a Legislative body, be liable to offensive intrusions. It was requisite for their being publicly useful, that they should enjoy public confidence, which confidence the being open to intrigues tended to destroy. These Mr. S. regarded as the true grounds on which the doctrine of privilege ought to be founded; he conceived that this doctrine could not extend to a member at his residence in the country. Hence the propositions made by Whitney to Mr. Buck in Vermont, were not a breach of the privileges of the House. For this reason he was in favor of discharging the prisoner from the bar, though in doing so, he differed from the reasons of several other gentlemen.

Mr. KIRCHELL pointed out the wide distinction between the cases of Randall and Whitney. It had been said that the latter must be criminal, for he was an associate with Randall. Mr. K. saw no such thing. There was no criminality in the bond. Keep a man in jail week after week upon idle suspicion! In justice, Whitney ought to have been tried at first, when he declared himself ready for trial. Mr. K. was for discharging him this day.

Mr. HARPER now moved an amendment to the resolution before the House: it was in these words:

"Inasmuch as the proposals made by the said Whitney took place before the member to whom they were addressed had taken his seat in the House."

Mr. GILES. If the amendment succeeded, he would vote against the whole proposition. This was a renewal of the attempt to define privilege. It was not practicable. Every case of the kind must stand upon its own merits. Mr. G. would vote against the amendment.

Mr. MACON read a resolution that Charles Whitney be discharged from the custody of the Sergeant-at-Arms. This was, in fact, reducing the second resolution offered by Mr. GILES back into his first one.

Mr. SENDWICK thought it an awkward thing to
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attempt giving any reasons. If gentlemen are willing to agree to discharge Mr. Whitney, they ought to discharge him. They assign different reasons for the same proceedings, and will not consent to it, but each in his own particular mode.

Mr. HARPER was astonished to hear so many invincible objections to telling the motives why we agree in a measure. It had been complained that privilege was undefined; that it was an assuming, creeping monster. An attempt had been made to define it, in part, and this also had been objected to.

Mr. MACON said, that he would vote to discharge Whitney, for a particular reason alleged by Mr. GILES.

Now, replied Mr. GILES, if the gentleman is to vote for the dismission because that is my reason, I desire him to vote against the dismission. My reason for discharging Whitney is totally different. I argue that all which we have entered on the Journals, admitting it proved, does not amount to any breach of our privileges. That is my motive for dismissing the prisoner.

An amendment was proposed to strike out of the resolution of Mr. GILES the following words: "That it appears to this House, that the information lodged against Charles Whitney does not amount to a breach of the privileges of this House; and." The amendment was agreed to—ayes 43, noes 41.

It was then moved to alter the remainder of the resolution, by striking out the word "he," and inserting "Charles Whitney." The amendment was adopted; and the resolution so amended, stood thus:

"Resolved, That Charles Whitney be discharged from the custody of the Sergeant-at-Arms."

This also was agreed to.

Mr. WILLIAM SMITH proposed an amendment. It was, in substance, assigning as a reason for the discharge of Mr. Whitney, that the offence against Mr. Buck had been committed in Vermont, before that gentleman took his seat in Congress.

Mr. MACON objected that this amendment was only bringing the House back to the ground which they had just quitted, and making them go over the same arguments a second time.

Mr. GILES said, that the former amendment to his resolution, viz: that suggested by Mr. HARPER, went at the head of his resolution. The one now proposed by the member from South Carolina went at the tail of it. This was the only difference between them. This way of making amendments was endless.

Mr. BOURNE was in favor of this amendment. It would be singular to discharge the man without assigning some reason for it on the Journals.

Mr. GALLATIN. Mr. Whitney was at the bar this morning, and we directed him to prepare for his defence. He is now gone, after having denied the charge laid against him. In the absence of the man himself, and without allowing him an opportunity for vindication, we are, by this amendment, to declare on the Journals, that he made an attempt on the integrity of a member, but be-

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cause it was before the member took his seat, &c. What kind of treatment is this? What right have this House to keep an American citizen ten days in jail, and then declare him infamous, without permitting him to be heard in his defence? He has said that the gentleman from Vermont misunderstood him. I believe that what the member said is true; but it may possibly be explained away. I will not vote for insulting a man by declaring him guilty at the very moment when we are forced to dismiss him, because we cannot find proof that he is so.

Mr. W. SMITH, in answer to what Mr. GILES had said about the head and tail of his resolution, said that he could make neither head nor tail of the argument used by the gentleman from Virginia. He had risen to make his amendment, because he thought himself as well entitled as that member, or any other member in the House, to deliver his own opinions, and to suggest such amendments as he judged proper. The objections of Mr. GALLATIN could be readily obviated by an amendment which he would read.

Mr. VENABLE was against the amendment before the House. It was quite immaterial where an offence was committed. A plan might be laid in Vermont. A gentleman might afterwards come to this House and act upon it; and vote for a measure that would ruin the country.

The amendment of Mr. W. SMITH was, on a division, negatived.

Mr. LIVINGSTON was for discharging the prisoner immediately, though he believed both him and Randall guilty of the offences alleged against them. They had not been in good company; he did not like the proposal the better because it originated with British merchants; though that circumstance did not amount to a proof of guilt. He alluded to the wars excited by British emissaries on the frontiers. *Timeo Danaos dona ferentes*. I dread these Britons and the gifts they bring. He then entered into a calculation, in order to prove that Randall and Whitney could actually have given away twenty-four shares out of thirty-six, and still, at the rate proposed, have a very large reversion of profit to themselves. He warned the House that he did not intend to affirm that the guilt of the prisoners was positively ascertained, but the evidence adduced had made an impression of that sort upon his mind.

Mr. PAGE said, he would vote for the motion to discharge Whitney, that he might be consistent with his vote of yesterday, and because he could not find any definition of the offence with which Whitney is charged in the books of our laws. If he could even find it in definitions of breach of privilege in the British Parliament, he found no punishment which this House was, by the Constitution, authorized to inflict. Parliament rules are, it is true, applicable to the proceedings of this House, and some of them have been happily applied here. But Mr. PAGE did not think parliamentary precedents respecting cases of breach of privilege, by any means applicable to the situation or powers of Congress. The Constitution had defined those powers, and he hoped never to

exceed them. He hoped that the House would get rid of an affair so foreign to their peculiar business of legislation as quickly as possible. He would have agreed to the present motion, had it been made a week since, and had it even extended to Randall. An insult had been offered by both prisoners to individual members; but how far that was an insult to Congress, or how Congress should resent it, might be doubted. He thought, with one of Randall's counsel, that the insulted member might have chastised him, or might have prosecuted him. He believed that there was no conceivable offence, but what could either be punished in a court of law, or a repetition of it be prevented by a new law. The present proceedings are not calculated to preserve the House against similar insults, nor necessary for securing the reputation and integrity of its members. As for protection from insults offered by the gallery, or persons in the street, he would go as far as any member in support of it; but he believed that the House might rely on the laws, and on their constituents, for protection, with more propriety than on British precedents. The present proceedings, if published as a precedent, will more likely produce discontent than respect. It is the duty of legislators to prevent injustice and establish uniform rules for proceeding against offenders. Hence it does not become them, in their own cause, to be prosecutors, witnesses, judges, and jurors. The majority who voted yesterday to punish Randall, may with consistency vote against the dismissal of Whitney. Both are charged with the same offence, and similar proof has, in both instances, been adduced. It is said that the offence was committed at Vermont, before the privilege of the member commenced. This was not an extenuation. It was more dangerous for a member to get such applications when at home than after he came to Congress. Mr. P. would rather be attempted here than at home. He was for the resolution.

Mr. W. SMITH had, early in the debate, observed, that a final determination this day, would be premature. He, therefore, moved to postpone the further consideration of the resolution till Monday. Gentlemen seemed to regret the extreme criminality of the plan. It went to rob the United States of a property worth perhaps twenty millions of dollars.

Mr. GILES was for discharging the prisoner instantly, because though every tittle were true, that stands on our Journals against him, it does not, altogether, amount to a breach of privilege. He had been, he believed, this day, a dozen of times upon his legs, to explain his reasons, and they had still been misunderstood. Indeed, if we are to talk on from day to day, for the purpose of protracting Whitney's confinement, it would be better to vote plainly for so many days of imprisonment. Mr. G. could not help observing, that in all which was said this day, he did not hear a single sentiment of sympathy for the sufferings of this poor man, who had been kept ten days in jail, on an accusation that, if proved, did not amount to an offence.

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Indian Trading Houses.

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The motion for postponing till Monday was negatived, only eighteen members rising to support it.

A second motion was then made for postponing till to-morrow (Friday.) Only thirty-two members rose in its favor. Negatived.

The resolution was then read :

Resolved, That Charles Whitney be discharged from the custody of the Sergeant-at-Arms.

The yeas and nays were called for and taken—yeas 52, nays 30.

The prisoner was then brought to the bar. The SPEAKER addressed him thus :

“Charles Whitney: the House have thought proper to discharge you without further hearing, by a resolution that will be read to you by the Clerk.”

This was done; the prisoner went off; and the House, at half past three o'clock, adjourned.

FRIDAY, January 8.

JEREMIAH CRABB, from Maryland, appeared, was qualified, and took his seat.

INDIAN TRADING HOUSES.

The House went into Committee of the Whole, Mr. MUHLENBERG in the Chair, on the bill to establish trading houses for the Indian tribes.

Mr. DAYTON objected to the bill, so far as it empowers those who are to sell the goods to the Indians, to procure or purchase the goods. He considered the uniting these powers in the same persons as highly exceptionable, and liable to great abuse. He moved to strike out the words “procure or.”

Mr. PARKER said that the objection was misapplied, for subsequent clauses placed the business under the special direction of the PRESIDENT of the UNITED STATES. He should not, however, object to striking out the words. His view in rising was merely to justify the committee who reported the bill, as they had supposed that sufficient guards were provided.

Mr. GILES did not think the reason given for retaining the words sufficient. The PRESIDENT cannot be supposed to have such cognizance of every part of this business as will enable him to secure the public, or Indians, from imposition. He was for increasing the checks against abuse.

The motion for striking out was agreed to.

In the third section, Mr. SEDGWICK objected to the words “laying aside all view of gain by the trade.” They might operate disadvantageously to the people of the United States, if Government should enter into this trade on a principle that would preclude all private adventures in the same line by citizens. The words were expunged.

Mr. PARKER presented a substitute. It relates to compensation of agents and clerks to be employed. The sum of ——— dollars was to be appropriated. The substitute was adopted by the Committee.

In the seventh section Mr. SEDGWICK moved an amendment, providing for the forfeiture of li-

censes in case of contravening the provisions of the law. This motion was withdrawn in order to introduce the provision elsewhere.

Mr. MILLENGER moved to strike out the whole of this seventh section. It appeared to him to involve provisions which would be proper in another law, but in this bill blended two different subjects.

Mr. SEDGWICK considered the provisions in this section referring to certain rules for regulating the public trade with the Indians, as proper, since similar rules would be made in regulating the trade of individuals with Indians. On this ground he was for retaining the section.

It was moved to modify the section by confining the provisions to “the agents or clerks,” specially employed by the United States. This amendment was agreed to.

On the motion of Mr. SEDGWICK, the last clause of the seventh section, relative to the oath or affirmation, was expunged.

The Committee then rose; the Chairman reported the bill with the amendments, which were taken up, and agreed to by the House, with one verbal amendment.

Mr. SWIFT expressed his disapprobation of the bill. He thought the object unattainable to any important extent. He disapproved of public bodies being concerned in trade. It is always managed better by individuals. Great loss and dilapidation are the consequence; nor is it possible to guard against frauds and abuses. The public have no money to spare. It is the opinion of the Committee of Ways and Means, that additional taxes will be necessary for the public service. We must not tax our constituents for the sake of trading with the Indians. He hoped not. Mr. S. concluded by a motion for striking out the first section.

Mr. PARKER supported the principle of the bill; he wished a fair experiment to be made. The plan is founded on humanity and benevolence. It has been recommended by the PRESIDENT from year to year. Mr. P., on this subject, had been in sentiment with him. It was well known he had never lightly advocated a disbursement of public money; on this occasion, it would be a saving of public money. It will cost much less to conciliate the good opinion of the Indians than to pay men for destroying them.

Mr. HILLHOUSE was in favor of an experiment. Much had been anticipated from the plan; a beginning had been made, and he thought it best to try it for such a length of time as would afford a fair experiment of what could be done.

Mr. SWANWICK said he was in favor of the principles of the bill, were it merely as a change from our usual system of Indian affairs. We have hitherto pursued war at an expense of a million and a half of dollars nearly annually; let us now try the fruits of commerce, that beneficent power which cements and civilizes so many nations; barbarous till they became acquainted with its influence. To encourage us, indeed, a fact hath come to our knowledge on the investigation of the case of Randall. Gentlemen will remem-

ber his assertions to them, and the deed read in the House, in which so much was stated of the influence of the Canada traders over the Indians: well, let us try to balance or countervail this influence; but it has been observed, our private citizens will do this sufficiently in the way of their private trade. In general I am friendly to let commerce take its own level, without Governmental interference; but the little influence our traders have yet obtained, shows plainly enough defective capital or a defective extent of trade; both are to be apprehended. So many objects of speculation offer in this country, that individuals may not pay sufficient attention to this branch, in which they have so powerful a British interest to contend with. Government, alone, can do this in the infancy of the commerce. Let the experiment be made; we can lose little by it; we may gain a great deal. It has been observed, that this act hath been rejected in three different sessions of Congress already; and this is argued as a proof of its want of merit; but this hath been the fate in England of the navigation act; it was hundreds of years struggling to get into existence, but was not the less acceptable when at last it succeeded. Perhaps we may find this bill, on experience, none the worse for the difficulties, which, as an untried step, it hath hitherto had to encounter: it is recommended by general reasoning; let us try it; we can only repeal it if we find it does not answer the sanguine expectations entertained of it.

Mr. MACON was opposed to the bill. He thought the circumstance of the business having been so long in agitation, was a reason why it should be longer considered. The reason for delay was certainly not weakened by that. The business was highly improper for Government to embark in.

Mr. MURRAY had but one idea to suggest, as it was unnecessary to go over the general policy, which had been amply stated by other gentlemen. There appeared to him two objects; first, the securing the Indian friendship by a supply of their wants; second, the supplanting the British traders in their influence over the tribes whose hostilities might embarrass us. To the last object, therefore, the meditated mode of supply by public agency was peculiarly well adapted. The Indians are now supplied by a great company long established, very wealthy, and possessing this influence, in which we must supplant them. We are to consider whether, if private individuals are left to be the only competitors with the Canada company, this influence and this trade will be transferred agreeably to sound policy. He thought they would not. Small capitalists, and adventurers young in this trade, would certainly prove unequal to a competition with so well established and rich a company as the Canada company. It was no uncommon thing for great companies, when they were apprehensive of what they would call interlopers, to crush all competition by making a voluntary sacrifice of a few thousand pounds sterling. By underselling, on a large scale, for a time, and even a certain loss, they secured them-

selves in future from competition. This great company can afford to pay this price for the perpetuity of this trade and influence. In order to meet the capital of this company, we must not trust to individual small capitalists. By a sum appropriated by Government to the object, however large the capital in competition in Canada, the Government will be able to beat down the trade of this company and place it in American hands; and in a few years after the competition has ceased, the Government may then withdraw its agency, and leave it to private capitals, to which the field will then have been rendered easy.

The motion of Mr. SWIFT was negatived; and the bill was ordered to be engrossed for a third reading.

PERMANENT SEAT OF GOVERNMENT.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
of the House of Representatives:*

I transmit to you a memorial of the Commissioners appointed by virtue of an act, entitled "An act for establishing the temporary and permanent Seat of the Government of the United States," on the subject of the public buildings under their direction.

Since locating a district for the permanent Seat of the Government of the United States, as heretofore announced to both Houses of Congress, I have accepted the grants of money and of land stated in the memorial of the Commissioners. I have directed the buildings therein mentioned to be commenced, on plans which I deemed consistent with the liberality of the grants and proper for the purposes intended.

I have not been inattentive to this important business intrusted by the Legislature to my care. I have viewed the resources placed in my hands, and observed the manner in which they have been applied: the progress is pretty fully detailed in the memorial from the Commissioners; and one of them attends to give further information if required. In a case new and arduous, like the present, difficulties might naturally be expected: some have occurred; but they are in a great degree surmounted; and I have no doubt, if the remaining resources are properly cherished, so as to prevent the loss of property by hasty and numerous sales, that all the buildings required for the accommodation of the Government of the United States may be completed in season, without aid from the Federal Treasury. The subject is therefore recommended to the consideration of Congress, and the result will determine the measures which I shall cause to be pursued with respect to the property remaining unsold.

G. WASHINGTON.

UNITED STATES, January 8, 1796.

The Message and memorial were read, and referred to a select committee.

CHARLES WHITNEY.

A letter was read from Charles Whitney, enclosing a petition. Mr. Whitney requested the House to hear the evidence of Colonel Silas Pe-pune, who is now in town, in his vindication. The letter was dated in prison. His creditors, alarmed by the proceedings of the House, have

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Naval Armament—Survey of the Southern Coast.

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arrested him in jail, so that this affair has virtually ruined him.

The letter and petition were ordered to lie on the table, and then the House adjourned to Monday.

MONDAY, January 11.

INDIAN TRADING HOUSES.

The bill for establishing trading houses with the Indians was read.

Mr. S. SMITH moved, as an amendment, to strike out the words "jurisdiction thereof." The motion was withdrawn to make room for another, suggested by Mr. BLOUNT. This was, that the engrossed bill should be referred to a Committee of the Whole House. It was accordingly made the order of the day for to-morrow.

EXCISE DUTY UPON SNUFF.

Mr. GOODHUE presented a petition from certain snuff-makers, in the State of Massachusetts. They complain of the hardship of laying on the excise upon the mortar. If an excise is necessary, they recommend that it should be transferred back again to the weight. The petition was referred to the Committee of Commerce and Manufactures.

ARREARS FOR MILITARY SERVICES.

Mr. GILES called up his motion, laid on the table a few days ago, relative to procuring from the proper officers an account of arrears, due by the United States for military services to individuals. It was referred to the Committee of Claims, to report on the practicability and expediency of the resolution.

NAVAL ARMAMENT.

Mr. W. SMITH observed to the House, that, in the law regarding the equipment of the six frigates, there was a clause directing that the building should be suspended, in case of a peace being concluded between this country and the Algerines. Mr. S. read the clause in the act. He had not yet formed his own opinion. He wished the sense of the House to be known. If it was thought better to sell the materials, there had been so great a rise in the price, that they could be disposed of at such a rate as to avoid any loss to the United States. If it was thought proper to lay the money aside, as a naval fund, Mr. S. read a number of resolutions, which he would probably submit to the House; in the present stage of the business they were premature. He now submitted to the House the following resolution:

"Resolved, That a committee be appointed to prepare and bring in a bill to repeal the last section of the act, entitled 'An act to provide a Naval Armament.'"

Mr. PARKER said, that the committee appointed on the state of the Naval Armament were in the daily expectation of getting information on the subject from the proper officers. He advised that any proceeding on it should not be had till after that was obtained. Ordered to lie on the table.

SURVEY OF THE SOUTHERN COAST.

On motion of Mr. MILLEDGE, the House went into a Committee of the Whole, on the report of

the select committee on the memorial of Parker, Hopkins, and Meers. The report was dated the 29th of December last, and being on a subject of the highest consequence to the commercial interest of this country, the following abstract of the report is presented:

"The coast not only of Georgia, but also of South Carolina, North Carolina and Virginia, has never been surveyed with the degree of accuracy which their importance to the commerce and navigation of the United States demand. As to Georgia, in particular, whose harbors are numerous, and as yet very little known, few observations have been made upon its coast, and those few have now become uncertain, from the shifting of bars, banks, and channels. The committee are of opinion, that, to obtain accurate surveys and charts of those coasts and inland navigation, would be an object of national importance and general advantage. They find that the memorialists have undertaken, and made considerable progress in this useful work. The whole coast of Georgia, from St. Mary's to Savannah, inclusive, with its harbors, rivers, and inland navigation, has been completed by them with a degree of accuracy and skill, as it appears to the committee, which will entitle their work to public patronage; and, although it is now ready for engraving, they, having exhausted their resources, declare themselves unable to proceed without assistance. The sum which they require is three thousand dollars, which, together with the copy-right, would be a reasonable compensation for what they have done, and would enable them to prosecute their enterprise with prospects of bringing it to an early completion. The copy-right, as the committee think, ought to be a part of the compensation, because it would lessen the actual expense to the public, and operate as an inducement to the undertakers to make the work as perfect as possible. Though the committee conceive a high opinion of the capacity of the memorialists, and accuracy of their work, they will not pronounce them the most proper persons to be employed in an undertaking so useful and important, nor say what sum may be necessary to carry it into effect; they think it would be more advisable to leave those points, under proper limitation, to the direction of the Executive, which will be disposed, no doubt, to give the memorialists preference, which the committee are inclined to believe they merit, and which, after making the proper inquiries, will be enabled to estimate the sums requisite, and adopt such expedients as may tend to lessen the expense. The employment of the revenue cutters in that service, when not more usefully occupied, is one measure which the committee consider as highly proper: they therefore recommend the following resolution:

"Resolved, That the President of the United States be requested to obtain, as soon as possible, complete and accurate charts, made out from actual survey and observation, of the seacoast, from the river St. Mary's, in Georgia, to Chesapeake Bay, inclusive, and that—dollars be appropriated for that purpose."

The SPEAKER and Mr. SWANWICK read each of them a motion for referring the subject generally to a committee. They wished to have the object of the motion extended.

Mr. MILLEDGE thought that if the matter took this turn, it would clog the business. The committee report that the surveys have been made with accuracy, and he therefore recommended such measures as would lead to an early publica-

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Remission of Duties, &c.—William Tomkins, &c.

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tion. He represented the dangerous state of navigation on the coast of Georgia, where were many harbors totally undescribed.

Mr. SWANWICK hoped that there would not be an opposition to a general reference. He would vote for a recommitment on that principle.

Another member stated, that, from Charleston to St. Mary's river, there are few or no charts; many ships are lost for want of them. He hoped that the motion for recommitment would not prevail. This motion passed.

The Committee rose, and the Chairman reported. Mr. SWANWICK thought that the motion should be referred to the Committee of Commerce and Manufactures, which has some analogous subjects before it. This was agreed to.

REMISSION OF DUTIES, &c.

A report from the Committee of Claims, on the petitions of Wright White, John Devereaux, and William and Archibald McNeills, was taken up and considered. They severally requested remission of duties on certain articles which had paid them. One of these was for a cargo of salt destroyed, on the second of August last, in a storm. The committee were of opinion that there seems no reason for remissions of this kind, any more than of the price itself, with which the duties paid must be understood to be incorporated. The petitions of William Smith and Joshua Carter were of the same nature. The whole of these petitioners had leave granted to withdraw their petitions.

In the case of Smith and Carter, the petitioners claim compensation for a vessel lost in consequence of having been misled by lights under the care of Government officers. It appeared that accident had destroyed one of the lights, and the principle established by this decision of the committee against the petition, determines that Government cannot be responsible in this way for even the negligence of the persons employed in the service of the light-houses.

The committee, also, on the petition of Moses Myers, recommended that he should have leave to withdraw it. Mr. GOODHUE said that it involved certain important points. He therefore moved that it should be referred to the Committee of the Whole. Wednesday is appointed.

WILLIAM TOMKINS.

The report in the case of William Tomkins, of the county of Louisa, Virginia, was taken up. There had been a negative on this petition, during the last session, by a report from the Committee of Claims. Lieut. Robert Tomkins, brother to the petitioner, returned from the American Army with the small-pox. He infected the family. Henry Tomkins, the father, died, and his wife and children were reduced to distress.

Mr. TRACY remarked that Robert Tomkins died in 1777, before any commutation was promised, and therefore he thought the claim incompetent.

Mr. PARKER had known Mr. Tomkins, who was an officer in the regiment that he command-

ed. He likewise thought the prayer of the petition was inadmissible. Negatived.

CALEB NEWBOLD.

The report on the petition of Caleb Newbold, and others, was next read. The petition was for the price of a quantity of pork, taken in the late war, for the use of the American Army. The father of the petitioner had sued the State of Pennsylvania, and had been refused payment by a jury. The limitation act passed while this was first depending, so that time had been lost by an application in the wrong quarter, but not by negligence.

On motion, by Mr. MASON, the petition was referred back to the present Committee of Claims.

Mr. TRACY moved that such parts of the reports of the Committee of Claims, of this Congress, as have not been acted on, with the petitions and vouchers whereon they are founded, be referred back to the new committee. This was agreed to.

JABEZ JOHNSON.

A report on the petition of Jabez Johnson was taken up. He claimed payment for sixteen new four-pounder pieces. They had been, in 1775, removed from New York to King's Bridge, to prevent their falling into the hands of the British. The petitioner knew not what became of them afterwards. The report was unfavorable; but, on a motion by Mr. KITCHELL, the petition was referred back to the committee, because some new documents have appeared since the report was made.

SAMUEL HENRY.

The report on the petition of Samuel Henry was unfavorable, and the committee made such a report with the utmost reluctance and regret. He had been possessed of large property in Charlestown, when it was burnt by the British, at the battle of Bunker's Hill. He was reduced from affluence almost to want, and had, not long after, lost four sons in the war. The committee could not grant redress for property destroyed in this way, and the refusal of Mr. Henry's petition arose from the absolute necessity of adhering to some fixed rule. Multitudes of other persons were in the same situation; and it was, as Mr. SEDGWICK observed, beyond the power of this Government to satisfy such claims. Negatived.

The House then adjourned.

TUESDAY, January 12.

A bill from the Senate to regulate proceedings in cases of outlawry was read a first time. By a special order of the House, it was read a second time—there being for a second reading 41 against 26. This was done, and the bill was referred to a Committee of the Whole on Monday.

Mr. W. SMITH, from the Committee of Ways and Means, presented a report of appropriations and expenditures for the year 1796. The report was read, and referred to a Committee of the Whole House on Thursday.

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Indian Trading Houses—Robert Randall—J. B. Dumon.

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INDIAN TRADING HOUSES.

After receiving a number of petitions, the House went into a Committee of the Whole, on the bill for establishing trading houses with the Indians. The Chairman read the bill.

A motion was made to strike out of the seventh section the words "having jurisdiction thereof."

Mr. PARKER wished the amendment to be withdrawn, lest the bill itself might be lost by the delay. The amendment might, if thought necessary, be made in the Senate.

The amendment produced a long conversation. At last, the Committee rose, and the Chairman reported the bill with two amendments, which were agreed to. The bill was ordered to be engrossed for a third reading to-morrow.

CASE OF ROBERT RANDALL.

A petition was presented and read from Robert Randall. It represented that he was under close confinement by the orders, and during the pleasure, of the House. He hoped that his confinement, and the reprimand which he had received, would be judged a sufficient atonement for any offence or contempt which he might have committed against the honorable House. He solicited his release, and should, as in duty bound, ever pray, &c.

Mr. W. SMITH moved that this petition should be made the order of the day for to-morrow. Mr. SEDGWICK reminded the House of the petition presented some days ago for Whitney, soliciting that the House would consent to examine Colonel Pepune in his exculpation. Both petitions are to be taken up to-morrow.

CASE OF JOHN SEARS.

A report was made on the petition of John Sears. He solicited payment of arrears of pay due to John Fitzgerald, a soldier in the Maryland line. Sears had given him his own certificates, and was in lieu of them to receive the arrears expected to be due to Fitzgerald. On coming on to Philadelphia, Sears found that Fitzgerald had been returned as a deserter, and that his pay was of consequence forfeited. The committee, however, entertained suspicions that Fitzgerald might have been improperly entered as a deserter, which the man himself asserted. They found that General Greene, under whom Fitzgerald served in the Southern States, had once, from some circumstance of military necessity, advertised that soldiers who did not, by a certain day, appear at headquarters, should be ranked as deserters. In the end, several men whose furloughs were not expired, and others who were upon duty in different quarters, were returned as deserters; and as Fitzgerald had been in the service under Greene, it occurred that he might come under this description. They recommended that the proper accounting officers of the Treasury should be instructed to inquire, first, whether Fitzgerald was really a deserter or not; and, if he was not, whether the certificates had actually been delivered by him to Sears; and, if they were genuine, to pay them, notwithstanding the limitation act, within which, under the circumstances above

stated, they did not consider the case to come. There did not appear, on the face of the transaction, that there had been any jobbing in the matter, but merely that Sears had wanted to accommodate Fitzgerald. This is a summary of the case, as related by Mr. TRACY, Chairman of the Committee of Claims.

Mr. GILES wished to strike out of the resolution recommended in the report the words following: "In the same manner as though no statute of limitation had barred his claim." The fact, as explained, seemed to be that the case was not within that statute.

Mr. TRACY was not anxious about the words. The committee had thought that the resolution read better with them. He gave some reasons for this opinion. The words were struck out; the resolution passed, and the Committee of Claims were directed to bring in a bill to that effect.

WILLIAM FINDLEY.

A report was read on the petition of William Findley, a soldier in the late Continental Army. He had received, by his own account, nineteen stabs of a bayonet, and no compensation. The Committee of Claims remark, that if only the nineteenth part of the story were true, he might have had a pension long ago: there was nothing to hinder it. He brought no evidence of his assertion. The House, on recommendation from the committee, granted him leave to withdraw the petition.

JOHN BAPTISTE DUMON.

The House then went into Committee of the Whole, and took up the report of the Committee of Claims on the petition of John Baptiste Dumon. As this report produced some debate, and as the circumstances which it relates are interesting, it is here inserted at length.

"John Baptiste Dumon, of the Province of Canada, prays consideration and payment of the amount of four thousand three hundred and thirty-six dollars, which he thinks in equity the United States owe him, on the following statement, viz: His father was a warm friend to the American cause and Revolution; he lived in Quebec, and in 1775 and 1776, being a merchant, supplied the troops under General Wooster's command with many articles of clothing, and received paper money; that on the 6th May, 1776, he lent Colonel John Winslow, Paymaster, 892½ dollars, for which he took his bond for that sum in Continental bills of credit, not on interest, and was to have his money out of the first which arrived; that, when Colonel Winslow was on the road to Quebec soon after, the British landed, and prevented his making the payment. His father's house, on the Heights of Abraham, was used as a hospital by the Americans, for which reason the British troops burnt it; and for his attachment to the American cause his father was imprisoned, and suffered to a large amount. The petitioner, after the death of his father, and peace between Great Britain and the United States, found this bond of Colonel Winslow and 735 paper dollars in his father's desk; and on the 18th September, 1791, he received of Colonel Winslow the principal of the bond, without interest, and the bond was cancelled. He now requests a consideration for the interest of the sum contained in the bond; for the 735 dollars depreciated paper

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for the house burnt; and for his sufferings in prison—amounting to the sum of four thousand three hundred and thirty-six dollars, as stated above. His father died in 1783; was an aged and infirm man, and the petitioner a foreigner. These seem to be the reasons why an application was not made earlier than December, 1791, at which time this petition was preferred, and then referred to the Secretary of the Treasury; returned without any report, and, on the 5th January, 1795, referred to the Committee of Claims. By some documents with this petition, the committee are led to believe the actual bills were originally lodged with the petitioner: they were not delivered to this committee. The committee are of opinion the prayer of this petition cannot be granted, and that the petitioner have leave to withdraw it."

Mr. LIVINGSTON argued for paying the interest of the bond granted by Captain Winslow. He confined himself to this point.

Mr. TRACY said, that he and the other gentlemen of the Committee of Claims would have been glad to gratify their feelings by complying with the prayer of the petition, if it could be done on any general principle by which business could be got along. They thought it impossible to comply with the request.

It was said by some member that there might have been an interested motive for letting the bond lie over, in order to get the principal, interest, and all together. To this it was replied, that there never could be any rational motive for such conduct. The compound interest of the money that would be sunk must very nearly have equalled the principal sum itself. The matter had lain over fifteen years. It was unjust to ascribe any such design to the petitioner.

Mr. DAXTON said, that before gentlemen opposed the report, they would do well to reflect. "The bond was to have been paid in Continental paper money: this had depreciated so much that Mr. Dumon was in reality better off with a late payment in specie.

In answer, a gentleman observed, that when he had money in his pocket, he was entitled to consider it worth as much as its value at that time in currency. Continental paper, in 1776, was not at all depreciated, and Mr. Dumon, he had no doubt, could have got it off his hands at full value.

The Committee agreed to the report. They rose; the Chairman reported progress, and the House agreed, and leave was granted to withdraw the petition.

WEDNESDAY, January 13.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
of the House of Representatives:*

I lay before you an official statement of the expenditure to the end of the year 1795, from the sums heretofore granted to defray the contingent charges of the Government.

G. WASHINGTON.

UNITED STATES, January 13, 1796.

Ordered, That the said Message and statement do lie on the table.

A report from the Committee on Elections was presented by the Chairman, Mr. VENABLE. The Committee reported that Mr. John Richards, a member from the State of Pennsylvania, was duly elected, and recommended that he be permitted to take his seat. The report was ordered to lie on the table.

Mr. GILES, from the committee for reporting on an universal system of bankruptcy, introduced a bill, which was made the order of the day for Monday week, in Committee of the Whole.

INDIAN TRADING HOUSES.

The bill for establishing trading houses with the Indians was read a third time by the Clerk.

The SPEAKER proceeded to read it over again, in order to fill up the blanks.

The first blank in the bill was filled up with the words "one thousand" before "dollars."

The second blank was for the penalty for carrying on any other trade with the Indians, by the agents, than that warranted by the statute. It was filled up with "one thousand" dollars.

Another blank was for the sum to be allowed to Agents and Clerks. Six thousand dollars allowed.

The blank for the sum to be expended on goods was proposed to be filled up with one hundred and fifty thousand dollars.

Mr. PARKER argued for this sum. Two hundred thousand had been recommended by the Secretary of State. Mr. P. told him that the fifty thousand granted formerly would be added to the appropriation of this year, and make up what was wanted. He said, that, having been lately at war with the Indians, and having happily closed it by a desirable peace, he hoped that measures would be taken to preserve a perpetual tranquility on the frontiers. He felt very sensibly for the distressed situation which these poor people had been in ever since the Europeans first landed in America. He hoped that steps would be pursued similar to those which France pursued before she lost her Colonies on this Continent, and which have been adopted by Britain ever since the United States became independent. It was well known, that though Carolina and Virginia had, while Colonies, been in constant war with the Indians, Pennsylvania supported a perpetual peace. No instance had occurred in history of a war between them till the war of the Revolution. The reason was, that the former Colonies carried the sword among the Indians—the latter, wagons loaded with goods. He considered this measure not only as beneficent, but he felt for the honor, the dignity, and the interest of the country, that the sum should be liberal. He wished that there should be at least a fair experiment for two years. All inquiries had tended to prove to the Committee that the sum proposed was not too much.

Mr. WILLIAMS thought an hundred thousand dollars were enough.

Mr. HILLHOUSE was for the larger sum. Economy, in this case, required the allowance to be liberal. He did not conceive, by voting this money, that it was to be sunk or lost, but if employed in the military service against them, the whole

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was gone for ever. If the sum proved larger than was necessary for the use intended, part of it would be saved.

Mr. ISAAC SMITH and Mr. KITCHELL concurred in opinion with the preceding speaker. They did not think the sum too large.

Mr. WILLIAMS, if in order, would move to postpone the further consideration of the bill until Tuesday next. The resolution was accordingly moved and seconded.

Mr. GILES wished, that after the blanks in the bill had been filled up with an hundred and fifty thousand dollars, the bill should lie over for some time, till the House have learned from the report of the Committee of Ways and Means what funds are unappropriated, or what new taxes may be wanted. The House had often been embarrassed by voting money without having provided to supply it.

Mr. MACON thought it would be better not to fill up the sum in the blank of the bill, but rather to let the whole blanks be open till the bill should be taken up again; for, if they are filled up now, and the sums appropriated shall hereafter be found too large, there will be no way of touching that part of the bill, but by referring it back to a Committee of the Whole House. This trouble would be saved by leaving it blank.

Mr. SEDGWICK said, that Mr. MACON had anticipated the chief thing which he meant to say. He wished, however, to learn more of the subject before he gave his vote for the sum. It may be too much, or it may be too little. He had not yet information to determine him on that head. There were large anticipations on the revenue. He disapproved of hurrying this affair, till the House were better informed about it.

Mr. VENABLE moved that the first Monday of February should be named for taking up the bill.

Mr. S. SMITH observed, that if the bill did not go through immediately, the season for sending to Europe for goods would be lost. The bill would thus be thrown back for a whole year.

Mr. GALLATIN wished for a delay of three or four weeks. He would not appropriate any part of the war funds for this scheme. There is no excess in the receipts over the expenditures. On the other hand, from his view of the funds, two millions of dollars of additional permanent funds would be wanted, if any progress was to be made in discharging the Public Debt. He would not vote for the bill, unless there was to be a reduction in the expense of the Military Establishment.

Mr. MADISON said that the object of the bill was so extremely benevolent, that he must agree to the principle. He recommended a delay.

Mr. S. SMITH, who had spoken before Mr. GALLATIN, observed, that if there was a delay of the bill it would afterwards take a month to get through both Houses. The goods, if wrote for on the 1st of April, could not be here till October. They would then be too late to answer the purpose for the year. He would ask Mr. GALLATIN, who knew the back country better than he did, how it would be possible to transport goods through it in

that season of the year. This was a way of destroying the bill. After making it impracticable to do anything, gentlemen would say, *see your bill!*

Mr. SWANWICK recommended the present moment as the most favorable to be expected for making investments from Europe. Ten per centum would be saved by making the investments at so favorable a time. There was also another reason against delay: the loss of the season. He did not approve of procrastination. We debate, and adjourn, at a very great expense to the public, and finally go through much less business than we might have done.

Mr. ILLHOUSE considered this an indispensable object. He would not, perhaps, oppose a delay till Tuesday next, but he would not agree to a delay till the first Monday of February.

Mr. VENABLE said, that hurrying the bill forward would not answer any end, till the House know the funds from which the sums thus voted are to be defrayed. The ten per centum upon investments could not be saved at present, as suggested by the gentleman from Pennsylvania, for though the act were passed, the money cannot be had for a considerable time to come. It is impossible, by any degree of haste, to bring over the goods from England before next Fall. Every gentleman in this House may know that it is impossible to have them here before next Fall.

Mr. GILES was exceedingly disposed to doubt whether the bill, if passed, would produce any of the good consequences expected from it, notwithstanding that he was in the habit of trusting much to the judgment of those from whom it came. There is, at this time, no money in the Treasury but what has been already appropriated. The delay till February is nominal, but not real, since, from the want of cash, we cannot take advantage of the present rate of exchange. It was said that this rise in favor of America was owing to the intended British expedition against the French islands in the West Indies. If the supposition were true, Mr. G. apprehended little danger that the rate of exchange in favor of the United States would lessen for several months to come. He would rather imagine that it had not yet arrived at its height. This kind of conjecture was, however, too vague to build any public measures upon. He would vote for the delay till he saw what funds could be ascertained for discharging the sums appropriated by the bill.

The question was then to be taken on the two resolutions before the House, the one for postponing till Tuesday, and the other till the first Monday of February.

By the rules of the House, the latter resolution, as including the greatest length of time, was taken first. It was carried—yeas 45, nays 40. So the bill stands over till the first Monday of February.

Mr. CLAIBORNE read a resolution for requesting the PRESIDENT to lay before Congress a statement of the number of trading houses which would be necessary, of the different species of goods, and of the sums of money which will be requisite to carry on intercourse with the Indian tribes.

Mr. GILES said that the House knew as much on this subject as the PRESIDENT. He hoped that the motion would be withdrawn. It was in fact telling the PRESIDENT to pass the bill. Last year a requisition of this nature was made to the PRESIDENT, who, in the opinion of Mr. G., acted with much propriety. He sent it at once to the Secretary of War, and thus took away all responsibility from himself.

Mr. PARKER thought some resolution of this nature to be proper. He did not know whether the present one was strictly proper or not. It had been hinted by some former speaker, that the select committee might be expected to give particular information. They had performed the duty assigned to them, and had now no more concern with the subject than any other members of the House.

Mr. VENABLE expected that the committee, though not strictly bound to do so, would give all the information in their power. This they might do, and it would be of use: They could state their reasons for recommending particular clauses in the bill.

Mr. CLAIBORNE said, that his reason for proposing the resolution was in order to obtain better information than what he at present had. He wished to be guided by the PRESIDENT. He desired to have his mind more satisfied than it is now on this subject.

Mr. PARKER wished to strike out the word "President," and insert "the Secretary of the Treasury." He would then vote for it.

Mr. GOODHUE was against the resolution. He observed that the official duty of the Secretary did not lead him to such a knowledge any more than that of any member of the House.

The SPEAKER then reminded the House, that there was a communication from the Secretary of War upon this subject which had not yet been read to the House. This was No. 4, which was accordingly read.

The resolution offered by Mr. CLAIBORNE was negatived without a division.

RANDALL AND WHITNEY.

On motion of Mr. CHRISTIE, the House took up the petition of Robert Randall, and on motion of Mr. SEDGWICK, that of Charles Whitney.

Mr. W. SMITH moved that Randall should be discharged from the custody of the Sergeant-at-Arms, on payment of the fees. He said that the petitioner had been guilty of a great offence; but he was willing to dismiss him. He had suffered some imprisonment, and been put to expenses with lawyers. The House could not however discharge him from the custody of the City Marshal. They might apply to the PRESIDENT, that there should be granted a *nolle prosequi*.

Mr. SWANWICK objected to the style of the petition as not sufficiently submissive. The passage he disapproved was in these words: "any offence or contempt which, in the opinion of the honorable House, he may have committed." The prisoner ought to have acknowledged his guilt. Mr. S. was sorry to be obliged, from a sense of duty,

to oppose the prayer of the petition. This paper looked like an insult upon the House. The petition was, at the desire of a member, read a second time.

Mr. MURRAY did not think that the petition could have been more delicately worded. The prisoner was still liable to prosecution from the Attorney General. A confession in this House might operate against him. Mr. M. had felt much pain in being obliged to lodge a complaint against Randall. He would vote with pleasure to discharge him.

Mr. SWANWICK, in answer, said, that the remarks of the member from Maryland had brought new ideas into his mind. He withdrew his objection; but saw no reason for the House to go further, or to interfere against a prosecution by the Attorney General.

Mr. REED, from Massachusetts, spoke in favor of the discharge.

Another member hoped that the House would not interfere to stop the proceedings by the Attorney General. He would suffer too little if discharged now. He was proceeding at length against the House interfering for a *nolle prosequi*, when

The SPEAKER rose: He observed that arguments as to the prosecution before the Attorney General were irregular. The only resolution before the House was as to dismissing Randall from the custody of the Sergeant-at-Arms. He made these observations with pain, but they were requisite. The House agreed to the request of Randall.

The petition of Charles Whitney was then read. Mr. SEDGWICK moved that the prayer of the petition should be granted; and that Whitney should be allowed to exhibit the evidence of Colonel Silas Pepune, and enter it on the Journals of the House.

It was objected as not in order to move to bring up a paper, not yet, as it appeared, in existence.

Mr. MACON moved to insert the word "not;" that Whitney should not be allowed, &c.

Mr. W. SMITH thought Whitney was entitled to enter this evidence. He had never been heard in his defence. He had, no doubt, behaved very ill in the business. Mr. S. made no question of his being an associate with Randall, but still his vindication had not been admitted. He had been discharged without an acquittal. Randall was allowed the use of counsel. They had been permitted to examine members at the bar. Randall had been asked if he could produce any witnesses in his defence; and if he had offered twenty witnesses they would have been examined. To enter this evidence of Colonel Pepune, Mr. S. considered as a point of right and justice.

Mr. MURRAY was satisfied that the deposition of the member from Vermont [Mr. BUCK] was strictly true. He could entertain no scruple about the truth of the charge; but let that and the evidence go to the world together.

Another member considered the petition of Whitney as an insult. He hoped that the House would not pay as much respect to it as to take a question upon it. He had said at the bar of this

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Commercial Restrictions.

[II. OF R.]

House that Mr. Pepune was his partner, and now we are desired to let his partner come and give evidence in his favor. He would as soon permit Randall himself to come to the bar in defence of Whitney. He believed Whitney to be just as guilty as the other, and thought that his confinement should have lasted, in point of justice, as long; though he was willing to get rid of both as early as possible.

Mr. SEDGWICK said, that he had only one idea to state. He considered Colonel Pepune as a competent evidence. The House had seen the original bond, which contained nothing unjustifiable in it. Whitney did not, in his examination at the bar, say, that Mr. Pepune had been concerned in any thing criminal, nor was there any reason to think so. If an agreement is made on honest principles, and afterwards one of the partners starts off from the original idea into any thing bad, no blame can rest on his original associates. An honest partner may be properly called in to exculpate him, if it can be done. Mr. S. cared very little whether the question was carried or not; and saw no reason for that *holy indignation* which had been expressed about it.

Mr. HILLHOUSE thought that to enter this deposition on the Journals would be the height of absurdity.

Mr. FREEMAN began to speak, when Mr. SEDGWICK rose and declared that he withdrew his motion. He never would have proposed it, had he expected so strong an opposition.

It was then moved to adjourn. The SPEAKER addressed the House. He said that as decorum was highly necessary in the House, he was sorry at being obliged to observe that the business of the House had this day been very considerably interrupted by strangers on the right hand side of the SPEAKER's Chair. He was therefore obliged to request of members, that no strangers whom they might introduce should go upon the right hand side of the Chair, but to turn to the left hand side, (that is, towards the gallery,) till some new order of the House was made on the subject. Members of the Senate will always have chairs placed for them on the right hand side of the SPEAKER's Chair, as long as they continued to give a permission of the same kind in their Chamber to the members of this House.

After these remarks, the SPEAKER, at half-past two o'clock, adjourned the House.

THURSDAY, January 14.

This day the House met at the usual time. After reading the Journals of yesterday by the Clerk, the SPEAKER informed the House, that it would be necessary for them to elect a gentleman to the Chair for this day in his place, as, from want of health, he was incapable of giving longer attendance. The House immediately adjourned.

FRIDAY, January 15.

COMMERCIAL RESTRICTIONS.

Mr. S. SMITH called up the resolution, which he

laid on the Clerk's table some days ago, for restricting foreign vessels, that they shall only bring into the harbors of the United States, the growth, product, and manufactures of the respective countries to which they belong. He moved that this resolution should be referred to a Committee of the Whole House.

Mr. HILLHOUSE recommended referring this resolution to the Committee of Commerce and Manufactures, as the subject was rather new.

It was objected by a member, that this reference could only tend to procrastinate the decision. He had no doubt that this Committee would report the resolution as it stood. There are no documents in the hands of the committee which are not before the House.

Mr. SWANWICK.—The principle is not a new one; but a very old one. It has been adopted, in a greater or less degree, by the most distinguished maritime nations. France has, at present, permitted a partial suspension of it, on account of the exigencies of the war. In Britain, the principle is above an hundred years old. It was the foundation of all her greatness by sea. He did not wish to object to this reference, if necessary, for digesting the principle. Of its propriety, he had no doubt.

Mr. HILLHOUSE replied that many British writers regarded the act of navigation as having been injurious to the commerce of England. The propriety of adopting that resolution rested not on the principle abstractedly; but whether the circumstances of the United States rendered such a step eligible. He thought that a few members would be better for digesting the resolution, in the first instance.

Mr. MADISON was of opinion, that all important propositions, and especially all those of an abstract nature, should be referred, in the first place, to a Committee of the Whole House. There could only be two reasons for referring, upon any occasion, to a select committee; either when there was an absolute want of time for the House to digest the subject themselves; or when any particular papers or documents were to be examined. This case was clearly not one of those. He recommended a Committee of the Whole in the first place. The general rule of propriety required it.

Mr. GOODHUE was in favor of a reference to the Committee of Commerce and Manufactures. He had not yet fixed in his own mind whether the resolution was right or otherwise.

Mr. MURRAY was for a select committee. The question would be more accurately investigated, and information more readily collected there than in a Committee of the Whole House. It was not so much to be discussed as a general abstract principle; but, as whether, from a consideration of the present circumstances, it was an advisable measure. This could only be learned from a particular detail of facts.

Mr. GILBERT.—The present question is not perhaps of the greatest importance, for it relates only to the mode of bringing the proposition with the most advantage before the view and consideration of the House. This House has lately appointed

standing committees for considering certain particular subjects. The question now is, whether the proposition before the House does or does not relate to the general ground or branch of the subject of any one of those select committees. If it falls within the general view or department of any of these committees, it clearly ought to go to such committee, in pursuance of the system adopted here for doing business. Mr. G. believed that the resolution obviously related to the business of the Committee of Commerce and Manufactures. The resolution comprises a subject of moment; it ought to be well considered from a minute investigation of the facts. If it were a proposition respecting revenue, it would, without hesitation, be referred to the Committee of Ways and Means; and if we would uniformly pursue the course of transacting the business lately settled by the House, there would be no hesitation in referring the proposition, in the first instance, to the Committee of Commerce. He wished to see the proposition presented to the House, accompanied with all the facts necessary to be considered in deciding on its merits. This, he thought, could only be expected by the special inquiry and investigation of that standing committee, to which he hoped that the resolution would, in the first instance, be referred.

Mr. S. SMITH observed, that he saw no use in a reference to a select committee, but to procrastinate the business. He alluded to the Committee of Commerce and Manufactures; a Committee of Navigation has been mentioned—there is no such committee—and he insisted that there was no propriety in a reference to the above standing committee. Mr. S. alluded to the late Treaty said to have been concluded with Great Britain, and remarked that the proposition he had brought forward, contained the only provision which was left us by that Treaty to save our commerce from prostration. Mr. S. said the public business was greatly delayed by postponements; six weeks have already elapsed, and scarcely anything was done.

Mr. BOURNE was in favor of a select committee; and he urged the competency of the Committee of Commerce and Manufactures to take the subject into consideration; subjects of commerce are connected with those of navigation, and so *vice versa*. Mr. B. did not see the propriety of introducing the Treaty on the carpet. The question is simply, whether the resolution shall be referred to the Committee of the Whole or to a select committee. Mr. B. urged a variety of reasons in favor of a select committee in the first instance.

Mr. GILES could not frame an idea of anything that was to be learned from such a select committee, unless they were to report a commercial history of the size of an ordinary volume. The report of a late Secretary of State [Mr. JEFFERSON] had condensed the whole information, which, at its date, could be obtained; and this paper is now before the House. All that possibly remained to be done, was to add the history of commerce from the time of that report to the present. No specific report could arise from them, but only the other over again. The resolutions above alluded to had

been referred to a Committee of the Whole, because the subject was general. The same reason would apply now, as this was an important principle. More information will be had on the floor of this House than can be had from any select committee. He was against any delay that could be avoided.

Mr. GOODHUE admitted the right of the United States to lay such restrictions. The expediency alone was doubtful; and this was his only reason for wishing that the subject should be referred to a select committee; that facts and circumstances might direct the House. He had not yet formed his opinion on this resolution.

Mr. SEDGWICK had not yet made up his opinion. He asked where gentlemen learned that there was a disposition in any part of the House to protract the discussion. He thought the reference to Mr. MADISON's resolutions rather unfortunate, for, after a very long discussion, the House came only to a preliminary resolution, which was doubtful in its meaning. Mercantile people might easily complete their ideas; but farmers might not be so prompt on a subject new to them. Mr. S. recommended a select committee, because in one of the Whole House, the debate would be desultory. The former would enter more minutely into the subject, and feel a degree of anxiety and responsibility. They would be more deliberate. Gentlemen were wrong in supposing this a subject of party. No gentleman here could have any interest separate from that of the United States.

Mr. BALDWIN was in favor of a reference to a Committee of the Whole, in the first place; this was agreeable to the practice of the House, from which the happiest effects had resulted. After the Committee of the Whole had discussed the proposition, the subject may then be referred to a select committee.

Mr. PAGE was in favor of a reference to a Committee of the Whole. He thought every subject should come before the members of this House, unaccompanied with the opinions of the select committee or of any individual whatever; this was consonant to the general practice of the House; this would divide the responsibility of public measures. He had no opinion of having public measures smuggled into the House, no one could tell how. Let every proposition be submitted fairly to the Committee of the Whole; in this way a general result will be obtained, and the sentiments of the majority will be fairly drawn forth.

Mr. HILLHOUSE denied any intentional design of delay. How that had been lugged into the debate he did not know. He had no disposition for hustling business through the House. In the course of this conversation, he had somewhat changed his opinion; and was ready to go into a Committee of the Whole immediately. He was willing to take it up here. It might next be sent to a select committee, and come back to the House. All this would throw so much more light upon the question.

Mr. TRACY was not for making laws by the rod. If we get through the session without doing any mischief, it is, I think (said Mr. T.) a great point

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Civil Appropriations—Contested Election.

[H. OF R.]

gained. He did not wish to hurry matters. He was for a Committee of the Whole.

Mr. SWANWICK thought it was a proud day for the United States, when their Representatives were to meet for the discussion of so great a subject. He had not so low a hope as the member from Connecticut, that we might merely do no mischief. He hoped that we should do good, perhaps, more than any of our predecessors. He was for a Committee of the Whole House.

Mr. SEDGWICK was for a select committee first, for, after discussing in a Committee of the Whole, it would be putting the cart before the horse completely, to send it to a select committee for information. They will have nothing to do, but to draw a bill.

By a large majority, it was agreed to take up the resolution, in a Committee of the Whole on Wednesday next.

CIVIL APPROPRIATIONS FOR 1796.

The House went into a Committee of the Whole, on the report of the Committee of Ways and Means, containing an estimate of the appropriations for the public service for the year 1796.

The Committee proceeded through the report without alteration or debate; the Chairman made his report accordingly.

The House took the same into consideration.

Mr. WILLIAMS moved that the clause containing the items for the Mint Establishment should be postponed for further consideration; the whole subject of the Mint is now referred to a Committee of the Whole, and the sense of the Committee remains to be known. In the present situation of the business, he was not prepared to give a vote on the subject. The motion for a postponement was not seconded. The SPEAKER then put the question on the several parts of the report, which were agreed to; and the Committee of Ways and Means were directed to bring in a bill or bills accordingly.

MONDAY, January 18.

CASE OF WILLIAM LITTLE.

Mr. GOODHUE, Chairman of the Committee of Commerce and Manufactures, pursuant to instructions from that committee, moved that they should be discharged from further consideration of the petition of William Little, merchant in Boston. Mr. Little had shipped for Europe seventy-one kegs of New England rum. Forty were, with difficulty, sold at Cadiz. The remainder were brought back, and, by some mistake, a custom-house officer seized them. The petitioner prayed for restitution or compensation. The motion of Mr. G. was agreed to. He then moved that the petition should be referred to the Secretary of the Treasury; which was also agreed to.

CONTESTED ELECTION.

The report of the Committee on Elections, made on the 13th of January, 1796, on the memorial of John Richards, came up next in order. The former report of this committee, was dated the 18th of

December last. The present report has finally determined the question in favor of Mr. Richards.

The following is an abstract of the Report:

"On the second Tuesday of October, 1794, an election was held in the counties of Bucks, Northampton, and Montgomery, in the State of Pennsylvania, for electing a member to the House of Representatives of Congress. On the same day, the militia of that district who had marched on the Western expedition, held an election for the same purpose.

"The law of the State, made for that special end, directs, that the county Judges of the elections, instead of meeting on the third Tuesday of October, as formerly, should meet on the 10th of November. The army election returns were to be sent forward by that day to the Prothonotaries of the respective counties, and the Prothonotaries were to deliver them over to the county Judges, to enable them to make their returns. The district Judges were to meet on the 15th November, five days after the county Judges, to examine the county returns to make an estimate of all the votes, and to return, as Representative for the district, the candidate who had the highest number of votes.

"The county Judges, agreeably to law, met on the 10th of November, 1794. At this time, no army returns had been received, excepting from the militia of Northampton.

"After the 10th, and before the 15th of November, the army returns of the county of Montgomery were received by the Prothonotary of the county. He delivered them to some of the county Judges. Two of these made up a return, and certified it, on the 14th of November, to be a true return of the votes that had come to their hands.

"On the 15th of November, the district Judges met, agreeably to law. There was then laid before them the last-mentioned return, made by the county Judges of Montgomery, with the respective returns of the county elections, and the original return of the election held by the militia of Northampton, on which the return above recited, dated the 14th of November, 1794, from the county Judges, was founded. The district Judges reported, that by the general return of the county elections, and that of the Northampton militia, James Morris had the highest number of votes, to wit: 1,648.

"By the Montgomery militia return, as put into the hands of the district Judges, John Richards had 156 votes, and James Morris 58. This number, together with all the other votes, on the other returns, in favor of John Richards, amounted to 1,791, and those for James Morris to 1,706. At this time, no returns had come to hand from the Bucks county militia.

"On the 18th of November, after the above report had been made to the Governor of Pennsylvania, certain papers were lodged with the Secretary of State. They purported to be a return of the votes from the Bucks county militia. They were unaccompanied by any list of the names of the voters, at the election, nor had any certificates of their having been examined by the county Judges. On this return, it is stated that James Morris had ninety-one votes.

"On these grounds the petitioner states, that he is entitled to a seat in the House.

"1st. Because, upon an estimate in the returns produced before the district Judges, on the 15th of November, including the Montgomery militia, he has 1,791 votes, and James Morris 1,706.

"2d. Let the army returns, both for Montgomery and Bucks be rejected. Take then the army returns for

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Contested Election—Tonnage and Imports.

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Northampton. Sixteen votes were given by persons unqualified, and two by proxy. Deduct these eighteen, and he has 1,635, to 1,630 for James Morris.

"3d. If you admit the whole army votes for each of the three counties of Bucks, Northampton, and Montgomery, and strike out the eighteen bad votes, on the Northampton return, Mr. Richards would still have 1,791 votes, against 1,779 for the late Mr. Morris."

The committee were of opinion, *first*, that the Montgomery return ought to have been received by the District Judges, as it came to the County Judges before the 15th of November, the time prescribed by law for the District Judges to meet.

Second. That the Bucks county return ought to have been rejected, as never having been examined by the County Judges, and being unaccompanied by a list of the voters.

Third. That sixteen votes in the Northampton militia were given by persons not on the tax lists of the county, and otherwise not in the description of freeholders. Two other votes were by proxy.

The committee recommend the following resolution:

Resolved, That John Richards is duly elected as one of the Representatives for the district composed of the counties of Bucks, Northampton, and Montgomery, in the State of Pennsylvania, and that the said John Richards be permitted to take his seat.

Mr. SEDGWICK moved that the further consideration of this business should be postponed till to-morrow. His reason for this was the absence of Mr. SITGREAVES, the only member, as it appears, in the House who was possessed of full information as to the facts and circumstances relative to the business before the House.

Mr. VENABLE, Mr. GALLATIN, Mr. SWIFT, and Mr. FINDLEY severally objected to any delay. Mr. BOURNE argued in favor of it.

Mr. PARKER supposed that nothing had been said on the side of Mr. MORRIS, because the gentleman himself was dead, and his family did not concern themselves about the matter. There might have been evidence.

Mr. SWANWICK said that the Journals were covered with motions of adjournment. He saw no good purpose that could possibly be answered by it. One member of the State Legislature is absent, and because his leave of absence expires this day, we are to have the additional loss of another member. He saw no occasion for such a waste of time.

Mr. GILES opposed further delay. He was generally against motions of adjournment; nor could he discover any use for it in the present instance.

Mr. NICHOLAS thought that if Mr. SITGREAVES possessed any material information, he might have laid it before the House in an early part of the business.

Mr. HARTLEY recommended a delay of one day, which could do no harm, and would be more satisfactory to the mind of the public.

Mr. MURRAY argued for a delay. The first report had been against RICHARDS; and if any gentleman had since wanted to oppose him, his vigilance might be slackened by hearing that the former report was against Mr. RICHARDS. Mr.

MURRAY did not know that he would object to the second report, but he wished it not to be too much hurried.

Mr. GALLATIN. The whole ground of opposition to the report is on this idea: that some facts may come out which are not yet proved. Now, every fact and circumstance concerning the transaction, was published six months ago by the Governor.

Mr. HARTLEY could conceive no inconvenience resulting from a postponement of one day. The badness of the weather had probably prevented Mr. SITGREAVES from coming forward. He thought it highly probable that Mr. RICHARDS was entitled to the seat.

Mr. SWANWICK said that the case was of less importance than the principle on which it went. Why should a gentleman be kept out of his seat even one day for a surmise? He thought it highly unjust to postpone the matter, even for one day. It is an old saying, that *sufficient for the day is the evil thereof*; but we are going further, by anticipating the evil of future days. It would be a very extraordinary mode of reasoning to keep one member out of his seat because another member was absent.

Mr. PARKER said that, if we take up this report to-day, we shall perhaps be sorry for it to-morrow. Of Mr. RICHARDS or his constituents he knew nothing, but he thought it likely that, before the gentleman was warm in his seat, there would be a petition against him. Mr. PARKER had no other motive for wishing a delay for one day.

Mr. VENABLE said there was a mistake in asserting that the first report had been against Mr. RICHARDS. This was not the case. Mr. SITGREAVES had not mentioned to the House any information that could be expected to reverse the report; nor had any other person come forward with any such. If any gentleman will say that new evidence has come out, let the report be re-committed. If there is none, let us proceed to decide upon it. This report has been six weeks in the hands of the committee.

On motion of Mr. MACON, it was ordered that Mr. RICHARDS should in the mean time have a chair placed for him within the bar of the House. This was accordingly done.

The report was amended to read thus:

"Resolved, That John Richards is entitled to take his seat in this House as one of the Representatives from the State of Pennsylvania."

The resolution was then agreed to unanimously. Mr. RICHARDS was immediately qualified, and took his seat.

TONNAGE AND IMPORTS.

On motion, it was

Resolved, That the Secretary of the Treasury do report a comparative view of the tonnage employed in the trade between the United States and foreign countries, for the years 1790, 1791, 1792, 1793, and 1794; and that he report the actual tonnage of vessels of the United States employed in the years 1790 and 1794, between the United

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States and foreign countries, beginning for each year, agreeably to the practice of the Treasury.

And, on motion, it was further

Resolved, That the Secretary of the Treasury lay before this House a statement of the goods, wares, and merchandise imported annually into the United States, with their value, since the thirtieth of September, one thousand seven hundred and eighty-nine, discriminating the amount of the articles imported in ships or vessels of the United States from the articles imported in foreign ships or vessels.

CONTESTED ELECTION.

Mr. VENABLE, from the Committee of Elections, to whom was referred the petition of Burwell Bassett, of the State of Virginia, complaining of an undue election and return of John Clopton, to serve as a member of this House for the said State, made a report, which was read; whereupon,

Ordered, That Wednesday next be assigned to take the said report into consideration.

Mr. W. SMITH reported a bill from the Committee of Ways and Means, making appropriations for the year 1796; which was read a first time.

After the reception and reference of several petitions, the House adjourned.

WEDNESDAY, January 19.

APPROPRIATIONS FOR 1796.

The House went into a Committee of the Whole on the bill making appropriations for the support of Government in the year 1796.

Mr. WILLIAMS, agreeably to notice given on a former day, moved to strike out all that gross sum appropriated for the officers of the Mint.

Mr. W. SMITH said that a great proportion of the sum was for salaries established by law. They must be paid, till the law is repealed. It the gentleman means to suspend the whole appropriation bill till an inquiry is gone through with respect to the Mint, the bill may be delayed for two months, and the consequence be the greatest embarrassment in Government.

Mr. JEREMIAH SMITH had never been much in favor of the Mint, nor had experience increased his good opinion of it. But passing this appropriation bill would not prevent a full investigation of this subject hereafter. He was for deferring any proceeding about the Mint till the select committee made their report. He opposed the motion.

Mr. SEDGWICK thought that the course which the gentleman is pursuing had never been adopted before. It is incorrect to discuss the merits of the Mint in passing this bill. We might as well take up the salary of the Chief Justice, or any other article in the bill, as the Mint. We never should have done, at this rate. We are now only to vote for the bill, as agreeably to the laws already made. Mr. SEDGWICK said that if the gentleman from New York [Mr. WILLIAMS] would bring forward any proposition for the regulation, or even the abolition of the establishment of the Mint, if it could be proved productive of public

benefit, he, with every other gentleman, would give him their aid to effect the object; but that now, he conceived, it could not regularly be brought forward. He thought an appropriation bill should be conformed exactly to the state of the public engagements, and that where establishments had been formed and salaries provided, the amount of them should be the principle of calculating the amount of appropriations; and that the House ought not, by withholding appropriations, to break in upon and destroy establishments formed by the whole Legislature. That these observations had hitherto been sanctioned by the practice on this subject. He observed, that if the House was to investigate, in the discussion of an appropriation bill, the amount of salaries, and the legal establishments of Government, the public service would be dangerously destroyed. He remarked, that it was to be observed, that no appropriation was made, for any purpose, since the commencement of the year.

Mr. GALLATIN felt alarmed at the principle advanced by Mr. SEDGWICK, for, if admitted, it might be applied in future on some other and important occasion. The motion made by the member from New York ought not, perhaps, to be adopted; but there was certainly a discretionary power in the House to appropriate or not to appropriate for any object whatever, whether that object was authorized by law or not. It was a power which, however inexpedient on the present occasion, was vested in this House for the purpose of checking the other branches of Government whenever necessary. That such a right was reserved by this body, appeared from their making only yearly appropriations both for the support of the Civil List and of the Military Establishment. Had they meant to give up the right, they would have such appropriations *permanent*. There was one instance in which this House had thought it proper to abandon the right. In order to strengthen Public Credit, they had consented that the payment of interest on the debt should not depend on their sole will, and they had rendered the appropriation for that object not a yearly, but a permanent one. Whenever that was not the case, and the right had been reserved, it was contradictory to suppose that the House were bound to do a certain act, at the same time that they were exercising the discretionary power of voting upon it.

Mr. SEDGWICK said that he certainly had no intention to have given occasion to the observations which had been made; but, as the general principle which he had laid down had been denied, and as it had some relation, either intimate or remote, to the subject before the committee, he would take the liberty to repeat the principle, and say a few words in support of it.

The principle, then, which he had assumed, was, that when legal establishments were made, it was the duty of the Legislature to make appropriations conformably to the public engagements; and that neither branch had a right to withhold its assent. He observed that the whole Legislature, and not a part, were competent to form contracts, and to establish and alter compensations and sala-

ries. The Legislature, and not either branch of it, had the power of expressing the public will, and pledging the public faith; that when a salary is ascertained, the public faith is pledged that it shall be paid, according to the stipulation; and that, therefore, the Public Credit is involved in making the necessary appropriations, without which it could not be paid. He asked, if, in such a case, it was competent to the House rightfully to withhold the means necessary for the performance of the public engagement?

He said he had always supposed that the power of the House, in the case of appropriations, did not give a power to yield or withhold assent on such a subject. He believed, in every such instance, the exercise of discretion was restrained. To illustrate his ideas, he could mention a similar instance. The Constitution had declared that the PRESIDENT should receive a stated compensation for his services, to be ascertained by law, which could neither be diminished nor enlarged during the term for which he should have been elected. Here was a duty imposed on the Legislature, with the performance of which they could not, they had no power to dispense. Yet, after the compensation was stated, no payment could be made in consequence of appropriating. He asked, if, in this case, when the public will was expressed, the engagement and the national faith pledged, the Legislature could of right withhold the necessary appropriation? The same observations might, he said, be applied to every instance where public contracts were formed. The public faith was pledged, the necessary appropriation must be made to prevent a violation of it; and if withheld, such violation might justly be charged on the Legislature.

Mr. WILLIAMS was willing to confine the resolution to one clause—that for purchasing copper for the use of the Mint.

Mr. DAYTON (the SPEAKER) took up the resolution of amendment on the ground of expediency. He thought it was too extensive. It was like bringing a side wind against an institution established by law. I am free, said Mr. D., to declare that the Mint has not answered the expectations of the Legislature that founded it. An impression is made on the public mind that it has been conducted with negligence. He would have agreed to the resolution, if it was only to strike out the new purchase of copper. He wished to wait for further information, till the report of the select committee was given in.

Mr. WILLIAMS agreed to restrict his motion as pointed out by the SPEAKER. He stated the enormous expense of the Mint—out of all proportion to any possible utility. He wished to have the subject fairly before the House. His resolution, as amended, was to strike out the following words: "For the purchase of copper for the use of the Mint, ten thousand dollars."

Mr. NICHOLAS was for the resolution. It had been urged that the House were to pass the appropriation bill as a matter of course. He thought otherwise. The House, in enacting a law, were entitled to consider all its consequences.

Mr. GILES adverted to a fact stated by Mr. WILLIAMS, viz.: that the cents are issued from the Mint at a cheaper rate than the price of the copper itself; so that, if a person chooses to melt down a pound weight of cents into a lump of copper, and takes this lump back again to the Mint, he will receive more money for it than what it was worth in cents. Thus the whole expense of workmanship is cast away. Mr. GILES described the ridiculous and wasteful effects to be looked for from such a way of coining money.

The amendment of Mr. WILLIAMS was agreed to by a very large majority.

Mr. NICHOLAS moved to strike out some of the subsequent clauses, for payments to mechanics, for stationery, &c.

Mr. ISAAC SMITH wanted to know if it was meant to stop the whole operations of the Mint.

Mr. PAGE objected to dispersing the workmen, who could not easily be collected again; at least it would require an immense expense to re-assemble them. It has been stated, in the course of this discussion, that *every cent coined in the Mint* has cost the public TEN; but if the workmen are to be dispersed, and if at any future time assembled again, the cents may come to cost *an hundred cents* a piece. Mr. P. recited various reasons for hoping that the business of the Mint will in future be conducted with more expedition, economy, and success. He stated the immense benefit arising to the country from the plenty of copper money, and especially to the poorer classes of people. A Mint was of more consequence than gentlemen seemed to think it was. He said that private Mints were reported to be setting up. He wished to refer the amendment of his colleague from Virginia to the third reading of the bill. By that time, the House would be better informed.

Mr. NICHOLAS did not wish to abolish but merely to suspend the operations of the Mint till nearer the end of the session. This amendment was negatived.

The deficiencies of the Mint, for the last year, form an article of eighteen thousand three hundred dollars. Mr. WILLIAMS said that it was an amazing sum. He wished to know the meaning of it.

Mr. W. SMITH, Chairman of the Committee of Ways and Means, replied that this article had not passed without due examination. The committee, consisting of fifteen members, were too numerous to enter into a detail of every article. They appointed a sub-committee to inquire about them, and in particular about the Mint. The original allowance of copper to be purchased was twenty thousand dollars. They had reduced it to ten thousand.

Mr. WILLIAMS moved to strike out these eighteen thousand three hundred dollars.

Mr. DAYTON complained that the Chairman of the Committee of Ways and Means seemed reluctant to give information.

Mr. W. SMITH stated that the gentleman had entirely mistaken him. His censure had been rather premature. He felt no reluctance to give every light possible. He then explained the steps

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taken by the Committee to convince themselves that there was nothing wrong in the Mint statement.

Mr. DAYTON apologized for his former observations on the Chairman of the Committee.

Mr. BOURNE objected to striking out these eighteen thousand three hundred dollars. The House cannot do it. The accounts are either settling, or already settled at the Treasury. Debts are actually contracted that must be paid. No gentleman points out an overcharge on any of the articles. It is not competent for the House to go through each one separately. It never was the design of the law.

Mr. JEREMIAH SMITH considered this as one of the plainest cases imaginable. Debts have been contracted and must be paid. If the gentleman, [Mr. WILLIAMS,] who seems to have so many suspicions, will be at the trouble of going to the Treasury office, he may look at the accounts, and if they are wrong, let him impeach the officers of the Treasury.

The amendment was negatived.

The Committee rose, the Chairman reported, and the House took up the bill as reported.

The amendment for striking out the ten thousand dollars to purchase copper, was objected to by Mr. BOURNE, who hoped that the House would disagree to it.

Mr. MADISON stated the fact already mentioned by Mr. WILLIAMS, that it would be profitable to melt down the cents, and carry the bullion back to the Mint for sale! He had it from the Chairman, and one of the members of the Mint Committee.

Mr. LIVINGSTON was for keeping in the amendment. Many people had strong doubts as to the utility of the Mint. He wished the whole appropriation for it to be struck out. The Mint he regarded as altogether an expensive and extravagant project, in the way wherein it had hitherto been conducted.

The House adhered to the amendment of the Committee of the Whole.

Mr. LIVINGSTON next moved that the whole appropriation for the Mint should be struck out.

Mr. JEREMIAH SMITH regarded this motion as too precipitate. He would recommend waiting for the report of the Select Committee on the Mint. He might then think that the Mint was an extravagant, wasteful, and useless institution; or he might think that it could be modified in a way to do much good. He was against the motion as being too early. The gentleman has perhaps ripened his opinion, while others may not have matured theirs.

Mr. LIVINGSTON replied that he wanted time to deliberate, before voting any thing about the matter. He had asked and the question had not yet been answered, whether any bad effect would arise from delaying to pass this appropriation at the present moment. His object in the motion was not precipitation, but deliberation.

Mr. HARTLEY thought it would not be fair, when we feel ourselves very comfortable here, to be striking off the salaries of other people, at this

hard season of the year. He was against the motion, and hoped that the amendment of the Committee, as to the purchase of copper, would also be expunged.

A member observed that there need be no apprehension of people starving. The parties were provided for by law, up to the thirty-first of December; and it had been the custom to advance salaries beforehand. The motion of the member from New York had nothing of defrauding in it, otherwise he himself would not have risen to second it. He hoped the resolution would prevail. He had occasion to go to this Mint, on business for a country bank which he named, and had seen the way in which the business was conducted. The institution is a bad one, and badly conducted. It has been most scandalously carried on, and with very little advantage to the public. If the institution is not to be better carried on than it has been, it ought to be thrown aside. The principal artist in the Mint is dead, and it will not be easy, at present, to get another in his place.

Mr. MURRAY said, that had the gentleman from New York moved for delay, for the purpose of introducing a motion to repeal the law which rendered this appropriation necessary, he would not have troubled the House with a single remark; but his motion to strike out an appropriation for the purpose of bringing the policy of the law itself into discussion, contained a principle in his mind so repugnant to the great Legislative duties of the House that he would oppose it. The object of the appropriation is not a temporary one, but a part of the machinery of our Government, under the express authority of the Constitution by law. The doctrine now contended for by the gentlemen from New York and Pennsylvania [Mr. LIVINGSTON and Mr. GALLATIN] was that this House have a discretionary power of appropriating or not. To this doctrine, taken in the extent which he conceived they contended for, he could not give his support. On the contrary, he thought that in all cases where an appropriation flowed from a law to make good a contract, or to erect a permanent organ in the Government, and from any law whose object was permanent, the true doctrine was, that it was the duty of the House to vote an appropriation. A law is the will of a nation. The same powers only that formed it can repeal it. If it be a Constitutional act, no power can lawfully obstruct its operation or its existence. But attending to the doctrine maintained to-day it would follow, that though this House had not the power of repealing a law made by all the branches of Government, it may obstruct its operations and render it a dead letter; though it cannot repeal, it may do what shall amount to a repeal, which is the assumption of a power almost equal to that of exclusive legislation. He thought he saw in this an evil of great extent, and an anarchy of theoretic principles. It appeared to him that though we originate money bills, we had no right to refuse an appropriation to existing laws that either secured a debt or any contract, or that related

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to objects permanent by the law that created or acknowledged them as long as the law itself remained unrepealed. We had but a share of Legislative power. Where a law relative to such objects as he had alluded to existed, from which an appropriation followed, till the law ceased by repeal or by other Constitutional means, it was obligatory upon us as well as upon our constituents, and the only powers we could exercise of a discretionary sort resolved themselves either into this mode of making good the appropriation, or of voting for its repeal. The other branches would then judge of the propriety of our proceeding; but till they who assisted in its enacting, judged with us the necessity of doing it away, a duty resulted that we should give it the energy intended by its enactment.

Mr. DAYTON conceived the question brought under discussion of too delicate a nature to be decided at the present time. He however expressed it as his opinion that the power of making appropriations was intended and ought to be a check on establishments.

Mr. NICHOLAS conceived the House bound to weigh the merits of every law when an appropriation was to be passed to carry it into effect, and no appropriations should obtain the sanction of the House, unless they were convinced of the propriety of the law.

Mr. GILES said he did not expect to hear a doctrine so novel broached in the House as that advanced by the member from Massachusetts [Mr. SEDGWICK.] He had declared that he conceived the House could exercise no discretionary power when about to pass an appropriation bill.

Mr. SEDGWICK rose to explain. The principle he advocated was, that when a law was made pledging the public faith, the House had no discretion to withhold, or not, an appropriation; at least as long as common honesty was more than a name.

Mr. GILES said that if this doctrine was admitted in its full latitude, the House would become a mere office for the registering of edicts. He contended that the House had a right, by withholding appropriations, to put an end to an institution without the concurrence of the Senate. He would not say that the present was a case that called for the exercise of that right, but they had in all cases of this nature a right to exercise their discretion.

Mr. MURRAY considered the laws of the land as depending upon two other branches of the Government besides this House, and conceived it highly improper in the House to attempt to obstruct them by withholding necessary appropriations. What would be the effect of a contrary doctrine? It must contain the seeds of governmental anarchy. While a law remained in force it was the duty of the House to do what was needful to carry it into operation. He made some allusion to the British House of Commons, who, by privilege, contend for the right of withholding supplies to be a check on the patronage of the Crown. But such a principle, he contended, could not apply here; our Government could not pro-

ceed if it were admitted. As long as a law exists, it is the duty of the House to make the needful appropriations. The whole wisdom of the Government is not in this House. The same power is required to repeal laws as to make them. It is true the Constitution has given to the House the more immediate command of the purse-strings; but they were under an obligation to open them when necessity required. There is a Constitutional way of repealing laws; but the House has no right to obstruct their operation while in force. A member from Pennsylvania, [Mr. GALLATIN,] he observed, appeared on a former occasion to coincide with his opinions on this subject; for he argued that the House was bound to pass such an appropriation, as a law existed giving the salary to the officer which it was meant to provide for.

Mr. GALLATIN said, in answer, that his observation had simply been, that the Committee of Ways and Means, and not the House, conceived itself bound to report an appropriation for an item established by law; but he never doubted the power of the House to pass, or not, an appropriation. In such cases the line of duty must remain to be drawn by opinion. With what degree of consistency can the House be called on for a vote if, as some members contend, they cannot have an opinion? Why are they called upon to say, yea or nay, if they are obliged to say yea?

Mr. MURRAY conceded that a member might say yea or nay, but his duty must in cases of this nature clearly point to one of the two; for he could not mistake the black and white marks in the court of conscience. He has the physical power to say yea or nea; but if he does his duty he must say yea. The contrary principle would go to this, that the House had a right to refuse an appropriation to pay a just debt.

Mr. GALLATIN observed, in reply, that each member will be the sole judge whether it was or was not his duty to say yea, or the contrary. The Constitution, he said, declared that no money should be drawn from the Treasury but by appropriations made by law: this did not look as if the voting of appropriations was intended to be merely a matter of form. In the second place, the Constitution declares, that no appropriation for the support of an armed force shall be made for more than two years. Thus, though a Military Establishment may be formed by enlistments for three or more years, yet the Constitution provides that the question shall be submitted to the House every two years; and this surely is not as a matter of form; but in order, at such short periods, by voting on an appropriation bill, to determine whether such an establishment should exist longer or not. He conceived the power which he advocated as residing in the House of great consequence, and to be used in important occasions only.

Mr. NICHOLAS, who had risen at the same time with Mr. GALLATIN, and had given way to him, observed, that when he first rose, he was going to read the clause of the Constitution which the

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member last up had referred to. As to the black and white marks the member from Maryland spoke of, they were differently placed in different persons; in matters of opinion men will differ; but the Constitution is a guide not to be departed from. The power of appropriation was vested by that instrument chiefly in the House, and no power on earth would prevent his exercising his discretion when that power was to be put in activity.

Mr. GILES observed, that the member from Maryland had got into the doctrine of checks, and seemed to think that if the House exercised its Constitutional check it would produce governmental anarchy.

Mr. MURRAY explained. He had alluded to the mode of getting rid of an establishment by refusing appropriations to carry it into effect. The Constitutional mode of procuring the repeal of the law should always be had recourse to; but he insisted that the House could not, as they were bound by their duty, obstruct a law in force by refusing an appropriation.

Mr. GILES conceived that the checks provided by the Constitution might be used by each of the powers of Government to their full extent, limited in every particular case only by their own discretion. If the harmony of the branches was to be made an argument to prevent the exercise of checks, what, he asked, became of the checks provided by the Constitution? Each branch of the Government (if he understood what was meant by Constitutional checks) was to exercise its own opinions and use its discretions within Constitutional limits, without a reference to the opinions of other branches. He next adverted to the powers of appropriation, which he contended were in a greater degree vested in the immediate Representatives of the people, to be a wholesome check. In case of an Army Establishment, for example, suppose the PRESIDENT or Senate were to refuse their assent to the repeal of a law establishing it? Will it be said that the clause of the Constitution empowering the House to make a biennial appropriation for the object, does not vest in them a discretionary power in such instances of overturning the establishment by its own will? for it cannot be kept up without an appropriation. Is the House to be told that, for the sake of harmony, they must give up their own powers and opinions? He maintained that, in cases of appropriations, they had a discretionary power, to be exercised, as in all cases, discretionarily. Was one branch to be judges of discretion for another? No; each should judge for itself.

Mr. MURRAY said, it was known to every one that an appropriation for the support of a Military Establishment could not be made for a longer term than two years; but that case was widely different from the present. It was known that, by the Constitution, a military appropriation cannot exist more than two years; but the doctrine he supported was in cases of debt or obligation under a law; and, in such cases, he still contended that though the House had the physical power

to refuse an appropriation to satisfy a claim thus founded, they had not the right.

Here the debate was interrupted by a motion for adjournment; which was carried, and the House adjourned.

WEDNESDAY, January 20.

PROMOTION OF USEFUL ARTS.

A bill from the Senate for the promotion of Useful Arts, was read the first time.

APPROPRIATIONS FOR 1796.

The House resumed the subject of yesterday. Mr. LIVINGSTON had restricted his resolution for striking out the appropriations for the Mint, sometime before the House rose. The pensions to the officers were an exception.

Mr. WILLIAMS observed, that he had made an estimate of the expenses of the Mint, and the sums coined, which he begged leave to state to the House, in order to aid them in their determination:

EXPENDITURES.			
In the year 1792 . . .			\$7,000 00
Do. 1793 . . .			18,648 28
Do. 1794 . . .			32,746 33
			<u>\$58,394 61</u>
CREDIT.			
Cents and half cents coined:			
In 1793 . . .	\$1,281 79		
1794 . . .	9,598 21		
			<u>10,875 00</u>
			47,519 61
Appropriations in the year 1795,	24,600 00		
Deficiencies now called for	18,300 00		
			<u>42,900 00</u>
			91,419 61
Deduct from the purchase of lands, build-			
ings, apparatus, machines, &c. .			28,887 09
			<u>\$61,532 52</u>

From this statement the sum of \$61,532 52 hath been lost by the Establishment, excepting a small sum which hath arisen from the coining of the precious metals. The total amount of the issues of the Mint, from its first establishment, is as follows:

Eagles . . .	2,795
Half eagles . . .	8,707
Dollars . . .	202,791
Half dollars . . .	323,144
Half dimes . . .	86,416
Cents . . .	1,066,033
Half cents . . .	142,534
Total in dollars . . .	<u>453,541 20</u>

This has cost the United States \$61,532 52, which amounts to more than 13 per cent. for coinage.

Mr. RUTHERFORD.—It is with diffidence that I ever speak in this House, because I pay the great-

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est respect to the opinions of gentlemen; but I will venture a few observations. First, is it necessary that the United States should have a Mint? I think it requisite, because all Governments have considered this as a necessary measure. I hope that the Mint may still operate to the advantage of the Union; for occurrences in common life teach us in the clearest manner, the wide difference between theory and practice. This is the case in the business of the Mint, as, indeed, the public expectations have been raised very high on this occasion. Specie was to rise almost spontaneously; but, I repeat it, all theory and practice differ widely, and, of course, this matter has not been so productive as was expected. But now to arrest the matter, while in actual motion, and by a kind of electrical shock, stop the whole pulsation, and totally defeat the measure, when in reality we have the agreeable port in view, appears to me unwise and imprudent. This measure would immediately impress the public mind with an opinion that Congress had abolished the Mint. This might turn the course of materials necessary for coining gold and silver to other markets, and if the measure was hereafter considered wise and necessary, the whole business must begin over again, and consequently make its outlets under many and conspicuous disadvantages. I am hence for giving it another year of trial.

Mr. GILES was for the motion. It did not go to the total destruction of the Mint. The design of the resolution was mistaken. It was better to wait for the report of the select committee. We shall then appropriate with more understanding than we do now. We shall see reasons for our conduct.

Mr. MADISON wished that the articles could be separated from the Civil List, when they are of a nature to admit of dispute. The military expenses had been separated from it, because an emergency might render it necessary to vote instantly for the Civil List; and the military expenses, by being connected with the other, might be voted without due deliberation. He wished that the articles could be divided, and the vote taken on them separately. He was not against voting for pensions to the officers of the Mint. He saw no harm in doing so in the mean time.

Mr. W. SMITH insisted that the money which had been advanced should be paid, such as \$18,300 of deficiencies.

Mr. GILES saw more reason for objecting to this than to any other part of the articles. It did not seem that the money had been paid.

Mr. GILES was stopped by the SPEAKER. The question was on the amendment to the amendment of yesterday. The gentleman might, after that was decided, speak to any particular clause.

Mr. GILES explained, that he had merely intended a reply to the remark of the gentleman from South Carolina.

Mr. SEDGWICK gave credit to Mr. GILES, when he said it was the design of no member to destroy the Mint. It would be a total prostration of national character to do such a thing. It was in the power of the House to modify or repeal the ap-

propriation, if they did not like it. If the materials and workmen were struck out of the appropriation the Director and Officers would not think themselves authorized to proceed. Mr. SEDGWICK, if one of them, would be of this opinion.

Mr. GILES rose only that he might not be misunderstood by the gentleman from Massachusetts. He had not said, nor meant to say, that he would never vote against the existence of a Mint, for it was very possible that he might give such a vote. He only said that the present amendment did not go that far. He waited to ground his opinion on the report of the select committee. He had as yet not formed a resolution. Before he sat down he could not help noticing a curious argument employed by the gentleman last up in favor of the appropriation being voted, that if it was found improper the House had it in their power to modify or repeal it. Mr. G. thought it would be much better not to make a law till they had time to learn whether it was a right one, than to pass it, under the notion of repealing it, if it proved unadvisable.

Mr. JEREMIAH SMITH imagined that the House had annexed much more importance to the question than it deserved. It was very little matter which way the votes went. He would vote for retaining the appropriations in the bill, and he cared very little whether other gentlemen did so or not. If anything proved wrong in the appropriation it could easily be rectified.

Mr. PAGE was against the amendment. It would be the height of extravagance to vote the continuance of pensions, and at the same time to deny materials for the workmen and their wages. This would be creating sinecures. He would rather vote double the sum of an appropriation than to strike out the articles. Every independent nation had a Mint. The present state of American coin was a kind of piracy on the Mints of other nations.

A member remarked that he had seen members vote for postponing the bill for Indian houses, because there was not a fund secured for paying the expenses. That was \$150,000. He thought that he saw a gentleman who voted against that bill voting for the present appropriation, and saying that the sum was trifling. Yet it was \$62,641, or very near the half of the former. He agreed with the gentleman from New Hampshire, [Mr. JEREMIAH SMITH,] that the difference, whether the amendment passed or not, was but a trifle, and, therefore, hoped that the gentleman would oblige him by voting for it.

Mr. SEDGWICK rose to explain. He had not voted against the Indian bill, but for postponing. There was not a gentleman, he believed, on that floor, who was an enemy to the bill.

Mr. CLAIBORNE was for the amendment, but did not, by this, mean destruction to the Mint.

The amendment was for striking out all the items except the deficiencies of last year. On a division—yeas 40, nays 45; the amendment was thus negatived.

The House then took up the clause for deficiencies. The motion for striking out was negatived.

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Contested Election—Permanent Seat of Government.

[H. OF R.]

The amendment for striking out the \$10,000 for the purchase of copper, reported yesterday from the Committee of the Whole House, was next taken up.

Mr. PAGE argued strongly for supporting the Mint. Formerly, there was a very ingenious but complicated machine, which, in coining, struck the dies with so much force as to break them. He believed that another was to be employed that would do much better.

Mr. HILLHOUSE had formerly been against the Mint, as a premature establishment; but he thought it would be disgraceful to retract now. He read a passage from the report made by the last Director, when quitting his office, and, of consequence, when he had no temptation to exaggerate; and this gentleman stated that the progress in future would be very great.

Mr. WILLIAMS, in reply, observed that the report contained many particulars very discouraging to the future prospect. If the institution is to be persisted in, he thought it should be removed to the permanent Seat of Government. He alluded to the great expense which has been incurred for buildings. Mr. W. further observed, that, as the burden of the Mint extended equally over all the Union, every part of it ought to reap the benefit. This was very far from being the case. Its advantages extended to a very small part of the Union.

For striking out the \$10,000, yeas 38, nays 44.

The amendments from the Committee being thus gone through, the bill was ordered to be engrossed for a third reading.

STATE OF THE FORTIFICATIONS.

A Letter from the Secretary of War, respecting the state of the Fortifications, was next received, and the Clerk began to read it; but there being some difficulty in obtaining the requisite attention from the House, the SPEAKER thought that it had better be referred to the select committee on that subject; which was done accordingly.

CONTESTED ELECTION.

The House proceeded to consider the report of the Committee of Elections, to whom was referred the petition of Burwell Bassett, of the State of Virginia, complaining of an undue election and return of JOHN CLOPTON, to serve as a member of this House for the said State; and the said report being twice read at the Clerk's table, was, on the question being put thereupon, agreed to by the House, as follows:

"It appears that an election was held on the 16th day of March, 1795, in the district composed of the counties of Henrico, Hanover, New Kent, Charles City, and James City, in the State of Virginia, to elect a member to this House.

"That, upon an estimate of all the polls taken at the several elections, John Clopton had 432 votes, and Burwell Bassett 422.

"That, out of the number of persons who voted for John Clopton, 37 were unqualified to vote, and of those who voted for Burwell Bassett, 33 were also unqualified to vote.

"Whereupon, your committee are of opinion that

John Clopton, who has the highest number of votes, after deducting the before mentioned defective votes from the respective polls, is entitled to a seat in this House."

The House then adjourned.

THURSDAY, January 21.

The Clerk informed the House that the SPEAKER was ill, and unable to attend: when the House, after some conversation, adjourned.

FRIDAY, January 22.

The SPEAKER being still indisposed, the several orders of the day were postponed, and the House adjourned till Monday next.

MONDAY, January 25.

The bill, entitled "An act to amend the act to promote the progress of Useful Arts," passed by the Senate, was read a second time, and committed for to-morrow.

The bill making appropriations for the support of Government for the year 1796, was read the third time, passed, and sent to the Senate for concurrence.

A bill to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, was read and referred to a Committee of the Whole on Thursday.

PERMANENT SEAT OF GOVERNMENT.

A report was made by the Committee on the Federal City, which recommends two resolutions, in substance as follows:

"Resolved, That the President of the United States be authorized to borrow such sums as, in his judgment, he shall see proper, not exceeding in the whole \$500,000, nor more than \$200,000 in one year, to complete the Public Buildings in the City of Washington. The loan to be secured on the public property of said city; the rate of interest to be by him agreed, and the term of payment, which is not, however, to be before the year 1800. The United States to guarantee the loan, should the property of the city prove inadequate, and that they engage to make good any eventual deficiency.

"Resolved, That it shall be the duty of the Commissioners appointed under the act establishing the temporary and permanent Seat of Government to render, every six months, to the Secretary of the Treasury an account of the moneys expended, of the progress made, and of the funds remaining in their hands, and an account of their administration—all to be laid before Congress."

Referred to a Committee of the Whole for Monday next.

ORGANIZING THE MILITIA.

Mr. GILES, from the Committee for Organizing, Arming, and Disciplining the Militia of the United States, reported a bill; which was read a first and second time, and made the order of the day for Monday next.

It was afterwards moved that it should be printed; and this motion was withdrawn. This was afterwards retracted, it having been stated by a member that only fifty copies of the old bill were preserved.

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Commerce and Navigation.

[JANUARY, 1796.]

COMPENSATION OF MEMBERS.

Mr. GOODHUE said, that the Committee of Compensation to Members and other Officers of Government were, from sickness, only four—they were equally divided. Mr. CORT was added.

EXPORTS OF THE UNITED STATES.

A Letter was read from the Secretary of the Treasury, enclosing a statement from the Commissioners of the Revenue of the exports of the United States, from October 1, 1790, to September 30, 1795.

Another communication was read from the Secretary of the Treasury. It enclosed the statement called for by two resolutions of the House of the 18th instant, so far as the Treasury documents furnish materials for the purposes therein mentioned.

These communications were referred to the committee appointed by the resolution introduced by Mr. SAMUEL SMITH.

TUESDAY, January 26.

Mr. TRACY submitted two resolutions. The first for giving the privilege of franking to the Accountant of the War Department; the second to augment his salary. The resolutions lie on the table. [These resolutions were taken up on the subsequent day and referred.]

Mr. HARPER moved that a committee be appointed to inquire what proceedings have been had on the act for the more general promulgation of the Laws of the United States. He also laid on the table a resolution that the number of copies to be printed should be augmented.

Mr. W. SMITH, from the Land Office Committee, reported a bill for establishing land offices for the sale of lands in the Northwestern Territory. The bill was read a first and second time, and referred to a Committee of the Whole House on Tuesday next.

EXECUTIVE SALARIES.

About twenty printed petitions and remonstrances from certain inhabitants of the State of New Jersey, were laid on the table by Mr. KITCHELL. They were all copies of the same tenor. They complained of the high salaries of the Executive and members of the Legislature. A militia-man, returning from service to his family, has only ten cents per day; a member of Congress has thirty cents per mile. This they regard as an aristocratical distinction.

Mr. KITCHELL said, that he had kept these papers for some time by him, as it was expected that many others of the same kind would be sent to join them. The complaint, he thought, had more foundation formerly than at present, since the great rise in the rate of living.

The petitions were referred to the committee who are to bring in a bill for ascertaining the compensation of members.

COMMERCE AND NAVIGATION.

Mr. SAMUEL SMITH laid the following resolution on the table:

"Resolved, That the Committee of Commerce and Manufactures do consider whether any, and what, alterations are necessary in the laws of the Union with respect to commerce and navigation."

Mr. SMITH then addressed the SPEAKER as follows: When the proper time shall arrive, it will be prudent, 1st, To make it the interest of all nations to meliorate their deportment towards the United States; 2d, To induce well-disposed nations to act favorably towards us, in their commercial regulations; and 3d, To correct positive evils by indirect means, where prudence restrains us from direct measures. The present time, when the nations of Europe, with whom we have the greatest relation, are on the eve of a peace, appears to me proper to consider the subjects, and I have therefore thought it my duty to lay before the House the resolution just read, that gentlemen may direct their attention to the propriety of repealing that part of the laws which lays an extra duty of 44 cents on foreign tonnage, and of one-tenth additional duty on goods imported in foreign ships. Such duties are in fact commercial war; and will be submitted to by nations in competition no longer than your commerce was insignificant. France resented it in 1791, at which time she employed but 8941 tons of shipping to the United States, and she passed a law laying seven livres per cwt. extra duty, on tobacco imported in American ships. This was equal to 46s. 6d. sterling per hog-head, when the whole freight was but 32s. 6d. per cwt. Thus she secured the carriage of 40,000 hog-heads of tobacco to her own ships. The stroke was immediately felt. Our ships were thrown out of the trade, and in 1792, there entered in our ports, 24,017 tons of French shipping, an increase of 15,076 tons in one year. Circumstances have compelled France to suspend that law, but will she not renew it, if we continue ours? Can we complain if she should? And is there not good ground to fear that she will extend her extra duties to rice, fish, lumber, and other objects of exportation, and thus secure to her ships the carrying of all the products of the United States, that she may have occasion for? It will be remarked that the French goods imported to the United States are fine, and would employ but few ships. But those from America to France are very bulky, and would employ a great number. Mr. JEFFERSON says, that in 1792, we employed 116,410 tons of shipping to France, almost the whole of which advantage will be lost in case she should countervail our protective duties.

In 1791, the merchants of Liverpool complained that our protecting duties had enabled us to monopolize the whole carrying trade between Great Britain and the United States, and prayed the King to take measures of retaliation. The subject was submitted to some merchants of London and Bristol, who acquiesced in the fact, but gave their advice against violent measures, expressing their hope that the evil might be removed by a Treaty of Commerce. In the late Treaty with Great Britain, she has reserved to herself the right of countervail, and bound us from laying any new duties

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Reuben Colburn.

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on her shipping. Mr. SPEAKER, I fear this countervail. It will be made at her discretion, and may or may not be just. If unjust, it will be an endless scene of negotiation and misunderstanding. But suppose that Great Britain, in our own words, lays an extra duty of one-tenth on goods imported in foreign vessels, what will be the consequence? Why effectually to secure to herself the exclusive carrying of all our products to her markets. For instance, the duty on tobacco, in Great Britain, is about fifteen pence sterling per lb. One-tenth additional to be paid by our ships is three halfpence. The hoghead, on an average contains 952 lbs. which will make the extra duty amount to £5 18s. 9d. per hhd., when the average of freight in times of peace is but thirty-five shillings per hoghead. Rice pays a duty of seventeen shillings and four pence per cwt. in Britain. Suppose the tierce of rice to weigh 672 lbs., the duty will then be £2 7s. 8d. One-tenth added will be 4s. 9d. sterling per tierce, if the rice is imported in an American vessel; when the freight of the tierce of rice in times of peace is only from 10 to 12 shillings sterling per tierce. On every other article of our commerce, Britain having the right, will make the countervail such as to secure the carrying thereof to their own shipping. Having once tasted its sweets, they will not easily relinquish the advantages. Portugal also complains. All nations that can, will resent those protecting duties, and having it in their power, will countervail. I therefore submit to the serious consideration of the House, whether prudence does not dictate a repeal of those duties.

The motion was ordered to lie on the table.

The House then adjourned.

WEDNESDAY, January 27.

Mr. HARPER moved that all reports which had been made by Heads of Departments to either House of Congress, and printed up to the commencement of this session, be reprinted for the use of the members, and that a committee be appointed to bring in a bill for that purpose. Ordered to be laid on the table.

Mr. VENABLE, from the Committee of Elections, to whom was referred the petition of MATTHEW LYON, of the State of Vermont, complaining of an undue election and return of ISRAEL SMITH, to serve as a member of this House for the said State, made a report; which was read: Whereupon,

Ordered, That Wednesday next be assigned to take the said report into consideration.

On a motion made and seconded that the House do come to the following resolution:

Resolved, That the salary of the Accountant of the Department of War, be augmented to the sum of — dollars, and that he receive the same in the same manner, and under the same regulations, as he receives his present salary, to commence on the — day of —."

Ordered, That the said motion be referred to Mr. GOODHUE, Mr. NICHOLAS, Mr. EARLE, Mr. WILLIAMS, and Mr. THOMAS; that they do examine the matter thereof, and report the same with their opinion thereupon, to the House.

On a motion made and seconded that the House do come to the following resolution:

Resolved, That the privilege of franking letters be extended to the Accountant of the Department of War; and that all letters to and from the said Accountant, be transported free of postage."

Ordered, That the said motion be referred to the committee appointed to inquire if any, or what, alterations are necessary to be made in the "Act to establish the Post Office and Post Roads within the United States;" that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

Mr. GREGG presented a petition from sundry inhabitants of Dauphin, Northumberland, and other counties in Pennsylvania, soliciting the making of a cross post road for two hundred and forty-three miles. Referred to the Post Road and Post Office Committee.

A petition from several merchants in Newbern, in North Carolina, praying remission of the duty on sundry goods destroyed by water, was read and referred to the Committee of Commerce and Manufactures.

A report was then read on the petition of Lucas Fitch. He had settled with Mr. Steele an army agent, for his claim, and got a note for £70 or £80, and gave a receipt in full. He intrusted his note to an agent, who lost it, and now the petitioner comes forward and asks the United States to pay the note. This, with the petitions of Timothy How and Margaret Lint, were negatived by the House.

REUBEN COLBURN.

The House then went into a Committee on the report of the Committee of Claims, on the petition of Reuben Colburn. The report of the select committee being unfavorable, was read.

Mr. DEARBORN urged that the petitioner had done every thing in his power to lodge his claim within the time limited by law. He asked a farther postponement for the sake of getting information.

Mr. HARPER objected, that the delay was owing entirely to the negligence of Mr. Colburn himself. He was completely ready to decide on the question. For deferring, ayes 41, noes 38.

The Committee rose. The Chairman reported progress, and leave was granted by the House for the Committee to sit again.

The remainder of the day was spent in the consideration of reports on private claims; and then the House adjourned.

THURSDAY, January 28.

Mr. GOODHUE presented a bill from the committee appointed for reporting on the compensation to members of Congress, and certain of their officers. The bill was made the order of the day for Wednesday next.

Mr. W. SMITH moved that the Committee of the Whole House should be discharged from farther considering the bill from the Senate to amend an act to promote the progress of the Useful Arts.

This was agreed to, and it was then referred to a select committee.

Mr. W. SMITH, from the Stenographical Committee, reported that they had conferred with Mr. David Robertson, of Petersburg, in the State of Virginia. They had thought him qualified; his demand for a session was to be four thousand dollars for preparing his reports for the press, exclusive of the expense of printing; and that Andrew Brown, printer of the Philadelphia Gazette, had offered to pay eleven hundred dollars of this sum, so that there would remain two thousand nine hundred dollars to be paid by Government. The report was made the order of the day for to-morrow.

PROCEEDINGS IN OUTLAWRY.

The House went into a Committee of the Whole on the bill from the Senate to regulate proceedings in cases of outlawry.

To the third section several amendments were proposed. The section itself was in these words:

"SEC. 3 *And be it further enacted*, That if the said person, so indicted shall not be found within thirty days after the said second writ of *capias* shall come to the Marshal's hands, or being found shall escape, the said Marshal shall, at least thirty days before the return thereof, read or cause to be read, the said second writ and the copy of the indictment thereto annexed, at the court house of the county within which the offence is charged by the said indictment, to have been committed, and also of the county in which the party is by the indictment supposed to dwell, if such county be within the district, or if the offence be committed on the high seas, then at the court house or one of the court houses where the said court from which the said writ issued is statedly held, and in the presence and hearing of at least twelve persons, which number, if need be, he is hereby authorized forthwith to summon and convene from the neighborhood, and then and there shall make or cause to be made a public proclamation in manner following, to wit: "A. B, [naming the person indicted] is hereby notified that an indictment is found against him, [or her, as the case may be,] and is commanded to appear at the day and place at which the writ now read is returnable and answer the said indictment and abide the judgment of the court, on pain and penalty of being outlawed, and every person so summoned by the said Marshal to attend and hear the said proclamation, shall be subject to the same penalty for non-attendance, and entitled to the same mileage for attendance, as persons summoned to attend as jurors in the Circuit Court of the same district, or in the District Court in the Districts of Maine and Kentucky."

Mr. GILES saw no propriety in giving the Marshal power to summon twelve persons, for the purpose above mentioned, and to fine them for not attending. He moved that the words "and in the presence and hearing of at least twelve persons," be struck out; so as that the proclamation should be made at the time of some court, for the purpose of greater notoriety. Courts would be sufficiently frequent to obviate any difficulties arising from the want of a reasonable collection of people to witness the transaction.

It was objected, that it might happen that no court was in session at the time when it would be necessary to make the proclamation.

Another motion was made to strike out these words following the former "which number, if need be, he is hereby authorized forthwith to summon and convene from the neighborhood." This motion was negatived—ayes 29, noes 34. A division was then taken on the motion of Mr. GILES. This was carried—ayes 42, noes 33.

Mr. GILES then moved, as a matter of course, to strike out from the words, "and every person so summoned," &c., to the end of the clause. Agreed to.

Mr. NICHOLAS proposed to add, in the 6th line of the third clause, after the words, "the court house," "and during the sitting of the court." The amendment was agreed to.

In the third line of section fourth, Mr. MILLEDGE moved to insert after the words, "thereto annexed," "to be posted in three or more places of public resort in the county in which the indictment was had, and in the county in which the offence was committed and." This also was agreed to.

The Committee rose. The Chairman reported the amendments, and the House took them up. After some conversation, the bill was recommitted to a select committee of three members.

And the House adjourned.

FRIDAY, January 29.

Mr. PARKER presented a report from the committee appointed to inquire into the state of the Naval Equipment of the Union, which was read a first and second time. They recommended that one of the forty-four gun, and one of the thirty-six gun frigates should be fitted out. As the United States are at peace with the Emperor of Morocco, and most likely so with the Dey of Algiers, a larger armament, at this time, is superfluous. They recommend that the materials of a perishable nature should be sold by the PRESIDENT OF THE UNITED STATES, and the money appropriated for discharging the Public Debt. The other materials are to be laid up. This report was made the order of the day for a Committee of the Whole, on Wednesday next.

A petition was presented and read, from Nicholas J. Roosevelt and J. Hart, merchants in New York. They stated that they had been considerably engaged in the business of mining, and wished for encouragement and protection of the House. On motion of Mr. LIVINGSTON, the petition was referred to a select committee.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
of the House of Representatives:*

In pursuance of the authority vested in the President of the United States, by an act of Congress, passed the 3d of March last, to reduce the weights of the copper coin of the United States, whenever he should think it for the benefit of the United States, provided that the reduction should not exceed two pennyweights in each cent, and in the like proportion in a half cent, I have caused the same to be reduced, since the twenty-seventh of last December; to wit, one penny weight and sixteen grains

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Jean Marie de Bordie—Stenographer to the House.

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in each cent. and in the like proportion in half a cent, and I have given notice thereof by proclamation.

By the Letter of the Judges of the Circuit Court of the United States held at Boston in June last, and the enclosed application of the under-keeper of the jail at that place—of which copies are herewith transmitted—Congress will perceive the necessity of making a suitable provision for the maintenance of prisoners committed to the jails of the several States, under the authority of the United States.

G. WASHINGTON.

UNITED STATES, January 29, 1796.

The Message and papers were read, and ordered to lie on the table.

Another Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
of the House of Representatives:*

I send herewith, for the information of Congress—

1. An Act of the Legislature of the State of Rhode Island, ratifying an amendment to the Constitution of the United States, to prevent suits in certain cases against a State.

2. An Act of the State of North Carolina, making the like ratification.

3. An Act of the State of North Carolina, assenting to the purchase, by the United States, of a sufficient quantity of land on Shell Castle Island, for the purpose of erecting a beacon thereon, and ceding the jurisdiction thereof to the United States.

4. A copy from the journal of proceedings of the Governor, in his Executive Department of the Territory of the United States Northwest of the river Ohio, from July 1, to December 31, 1794.

5. A copy from the records of the Executive proceedings of the same Governor, from January 1, to June 30, 1795; and

6 and 7. A copy of the journal of the proceedings of the Governor, in his Executive Department, of the Territory of the United States South of the river Ohio, from September 1, 1794, to September 1, 1795.

8. The Acts of the 1st and 2d sessions of the General Assembly of the same Territory.

G. WASHINGTON.

UNITED STATES, January 29, 1796.

The Message and papers were read, and ordered to lie on the table.

JEAN MARIE DE BORDIE.

The petition of Jean Marie de Bordie was next read. He was a native of St. Domingo, and had served in the fourth Georgia battalion during the war. He had been a man of property, and did not receive all his pay. He went to St. Domingo and staid there until the massacre. He has since found that his claim for pay is barred. The fact of his not being fully paid does not appear to be certified. A certificate signed Abraham Jones was read from the Treasury Office of the State of Georgia. This attested that no trace was there to be found of any payment made to the petitioner.

Mr. HARRISON moved that the report on the petition should be postponed until Monday se'nnight.

Mr. SWANWICK hoped that this gentleman would be relieved. He had come forward to support America in the hour of her distress; and on every principle of justice, of generosity, and of gratitude,

he hoped that America would now assist him. Mr. S. was even now ready to vote him some relief. If any gentleman had doubts on this subject, Mr. S. would be glad to vote for recommitment, in order that he might have time to satisfy himself. Mr. S. seconded the motion of Mr. HARRISON.

Mr. GALLATIN thought it better to refer this matter to the Committee of Claims; Mr. HARRISON accordingly withdrew his motion, and the former passed, for referring to the Committee of Claims.

STENOGRAPHER TO THE HOUSE.

The House then went into a Committee of the Whole on the report from the Stenographical Committee. The report was read:

Mr. SWANWICK then rose for the sake of asking information. He inquired whether the House were to sanction and authorize the reports of the proposed stenographer? He had very considerable apprehensions about the propriety of entering into the subject in any mode.

Mr. W. SMITH replied, that the gentleman engaged by the committee had undertaken to have his reports ready for Mr. Brown, printer of the Philadelphia Gazette, in the morning of the succeeding day.

Mr. SWANWICK rose again. He observed, that to give universal satisfaction was impracticable. So many gentlemen were to be satisfied, that it never could be accomplished. He observed that one of the principal causes of complaint against reporters was of a nature that did not admit a remedy. Gentlemen rose, in the ardor of discussion, and suffered many remarks to escape from them, which neither in thought nor expression, were perfectly correct. If the reporter, as was his duty, took them down, and stated them exactly, gentlemen were irritated by seeing themselves exhibited in this shape, and then blame was cast on the reporter. Every degree of praise was due to the editor of a Philadelphia daily newspaper, whom Mr. S. named, and who had not only done everything in his power to obtain the debates of the House at full length, but had frequently advertised, that if errors were committed by his reporter, they should, on application, be instantly rectified. More than this, it was impossible to desire, for no mode of conduct could be more liberal or candid. But Mr. S. did not see the propriety of blending the House of Representatives and the editor of a newspaper in this business. The stenographer is to be called an officer of the House, while he receives eleven hundred dollars from the printer of a Philadelphia newspaper. He is thus also the officer of the printer, as well as ours. If we give the gentleman the proposed salary, we are to depend on him alone, whereas at present we have different reporters, and two or three of them frequently and mutually both corroborate and correct each other. What has escaped one reporter, or what he has misunderstood, is often observed by his competitor. The error is amended, or the defect supplied. Mr. S. farther observed, that as far as he had read or heard of, such an institution as the one

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Stenographer to the House.

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now proposed, was never known under any Government, or in any country, that had hitherto existed. [It was observed, in some part of the debate, that an attempt of this kind was once made by the National Assembly of France.] Mr. S. expressed himself warmly against Government making any composition of the nature now proposed with a printer, and against any attempt for giving one newspaper an advantage over another, by any preference as to the copy. If Mr. S. wanted any person to be sure of dismission and disgrace, he could not name any other situation where that dismission and disgrace were so absolutely certain, as to a person accepting the proposed office of stenographer. If he did his duty, gentlemen would frequently not like to see their speeches exactly as delivered. If he altered them, his utility was at an end. It would therefore be much better to let the gentleman stay at his own business.

Mr. GILES objected particularly to the opposition made in this late stage of the business. He admitted that it was a delicate step, but he complained in strong terms of the inaccuracy of the reports now given. He observed that the object was not merely to find a stenographer who would satisfy the members of that House, but who would also give satisfactory information to the public at large.

Mr. SHERBURNE agreed with the gentleman last up, that the object of the resolution could not be merely to give satisfaction to members, but information to the public; though, if it was important that the public should be informed of what was said in that House, the proposed resolution would be inadequate to its objects. But he conceived it more important for the public to be informed of what was done, and that, he observed, was not always to be inferred from what was said; as (the mind being always open to conviction) it had not been unusual in a former—he would not say the present—House, for gentlemen to argue one way, and vote another. As, therefore, no certain inferences of the conduct of members would be drawn from their speeches, and as the public were more interested in their actions than their sayings, (a knowledge of which the present resolution was not, in his opinion, calculated to promote,) it would not meet his concurrence. But, Mr. S. further observed, that if the speech was to be considered as the infallible *inditium* of the subsequent conduct, as the avowed object of the resolution was to diffuse, through the various parts of the States a knowledge of that conduct, he should oppose it from a conviction that the means were not competent to the end. The resolution proposed a publication of the debates in a daily Philadelphia paper. These debates would necessarily be so voluminous as to engross the greater part of such a publication. Except in Philadelphia, New York, and one or two other large cities, there were no daily papers; in all other places they were not published oftener than once, or, at most, twice a week. The daily papers, in comparison with others, were few. If, therefore, a daily paper was engrossed by a detail of the debates, when would the public arrive at a knowledge of them through

the more common medium of a weekly paper? The inhabitants of this, and a few other large towns, might be gratified, perhaps benefitted, by a speedy perusal of them; but when would the citizens of more distant parts of the Union, through their usual weekly channels, be indulged with the like opportunities? The difference would be as one to six; and what the inhabitants of Philadelphia might become acquainted with in one year, the people of New England and Georgia would not be informed of in six years, unless they relinquished their own weekly publications for a Philadelphia paper.

Mr. SEDGWICK said, that he would candidly confess that the House had put itself in a delicate situation on this subject; yet, if, on the whole, gentlemen be of opinion that the measure was improper, it ought not, by reason of any antecedent conduct, to be now further pursued, to the public detriment. It was also but just to say that if the measure was proper, a more competent and more impartial agent than the one proposed could not be obtained. He said that the printers had much merit from their endeavors to communicate to the public the debates of the House, yet it must be allowed that their endeavors had been too unsuccessful; that in consequence, much injury had been done, not only to the characters of gentlemen as men of talent, but also, in some instances, to the motives which had produced public measures. These were evils to which a remedy should be applied, if it did not involve those which would be more injurious. It ought to be remembered that the man appointed would be an officer of the House, responsible to it for his fidelity and accuracy. The debates would then be published under authority of the House, and it of consequence was responsible for his precise execution of the trust. It was impossible to conceive that at some times, with the best intention, he should not mistake, and of course misrepresent. The member in such a situation would feel the injury, but redress would be obtained only by the interposition of the House. This would afford ground for numerous appeals, and endless litigation; and, in the end, might be ruinous to many valuable and respectable characters. It was of importance that no constraint should exist which would prevent gentlemen from expressing freely and without fear their own feelings and opinions and those of their constituents. How far the fear of misrepresentation, and the difficulty of correcting it, under such a system, would produce such an effect, gentlemen he hoped would consider before they assented to this proposition.

There was one other consideration, which had great weight on the mind. Whatever opinion we might entertain on the subject at present, all would remember the powerful influence of party and faction, and their intimate connexion with free Governments. From hence it might be easy to conceive, that hereafter this might be rendered the most powerful engine of an unprincipled majority, to overawe and to prostrate and destroy a virtuous minority. For no character was so established as to withstand for any length of time

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constant misrepresentation supported by the authority of the House of Representatives.

Mr. HARPER rose in reply to Mr. SEDGWICK, who, immediately after he began speaking, observed that the gentleman had mistaken his meaning. Mr. H. said that he perfectly understood the member, and proceeded to recommend the object of the report. He gave credit to the present reporters for diligence and good intention, but thought them far inferior to what might be done. Great attainments had been made, he admitted, but more might be done. He thought it of the highest consequence that the speeches of members should be correctly published and disseminated among the people. As to the sum now proposed, a London newspaper would give, he had no doubt, five thousand dollars a year for such a reporter. He questioned not that Woodfall would receive ten thousand pounds a year from the printer for his reports. It had been objected that daily papers alone could hold such debates; but weekly and semi-weekly papers could select the most interesting passages of them from the daily papers. Mr. H. recommended that either this report or a similar one should be adopted, or that the business of reporting should at once be put to an end. He spoke of *atrocious* mistakes. The debates, as now published, held up the House to the scorn of the world. He would rather have the doors shut up altogether. He would, if the present resolution was rejected, make a motion to that effect. He was sorry to learn that the debates had been collected into a book, entitled "The Political Register," of which he doubted not that immense numbers would be sent to Europe, and this book he reprobated in the strongest terms.

Mr. SEDGWICK observed, if gentlemen were misrepresented, in one of the newspapers, where debates were reported, the editor of that paper had advertised that he was ready to publish any corrections which might be offered. This notice had been long and frequently given, and gentlemen had it in their power to do themselves justice.

The first resolution in the report was then read, and the question going to be put, when

Mr. BALDWIN said, that the more the House advanced into this affair, the greater was the number of difficulties which occurred. The resolutions had the less weight with him because they were hurried through at the close of last session. The institution was unprecedented in any other Government. He knew that members might be misrepresented, but this scheme would not cure the evil. He repeatedly declared, that on all great questions, where talents found an object worth exertion, the debates in that House were very well represented. He had seen many speeches, sketched by printers in this city, that he would not wish to see better done. He did not know of any recent or particular complaints about inaccuracy. We have now been in session for seven or eight weeks, and there has not occurred much interesting matter, to make any remarkable debate out of. He said that the debates, if taken at full length, would far exceed the limits of any newspaper. As to the expense of printing, that of the laws of this ses-

sion would cost twenty thousand dollars, and he conjectured that to print the speeches would require an hundred thousand dollars; and even after they were printed, it would be necessary to pay people for being at the trouble to read them, for otherwise nobody would go through a perusal of every word spoken in the House.

Mr. NICHOLAS said, that the reports at present published were full of notorious falsehoods, and the characters of members with their constituents would have been sunk, if it had not been known that this kind of things deserved no credit. He was in favor of the report. He complained that even when pieces were sent to the printers, they were embodied in the sketch, by which means the reporter got the full credit of them, which had pernicious consequences. One of his objections to the present mode of reporting was, that the speeches of members were often much improved. He mentioned an instance from his own experience. A speech was once made for him by a person who reports in this House, and who has a very good style of writing. The style, said Mr. N., was above mine. There was not a sentiment in it which I would have disavowed. It was a better speech than mine; but, in an entire column, there was nothing that I said. As for sending corrections to the printers, Mr. N. was above it.

Mr. HILLHOUSE was against the report. The loss of four thousand dollars would be a much greater harm to the public than any injury arising from inaccurate reports. He did not see that the characters of members with their constituents depended on these publications.

Mr. SWANWICK.—The gentleman from Virginia last up has suggested that the House have somehow committed themselves to appoint a stenographer, by their previous resolution on this subject; but that resolution goes only to the committee receiving proposals. It therefore remains with this House whether to accept them or not when made. As to the gentleman who is the subject of the resolution, if I have more strenuously than usual opposed the motion, it is from a desire to keep him from quitting the lucrative situation he is said to find himself in, to embark on the stormy sea he is contemplating. To be the organ of the members of this House to their constituents, is indeed a very delicate task; one for which, considering the danger he might be in of an Orpheus's fate—that of being torn to pieces—the salary is but a poor compensation. He is to do justice to the eloquence of some members; he is to clothe in an elegant dress the uncouth, yet well-meaning expressions of others; but what will he do with the silent members, who never speak at all? What will their constituents think of them? Indeed, sir, if he has the idea I have formed of his danger, he will not undertake it at all. Faction and party have been mentioned; happy stenographer, if he can keep clear of these! If he fall into their power, insensibly he will represent one side in clouds and darkness, the other as ornamented with the brightest beams of light. How will he please both? Misrepresentation is complained of: alas, sir, how quick is error—how slow is the pro-

gress of truth in almost all things. Our stenographer must indeed be a wonder-working man, if he can revert this tide, and make every where light and correct reasoning prevail. The best mode of informing our constituents is, by the yeas and nays on our acts; this truly shows, as a gentleman from New Hampshire has observed, our doings, which are much more interesting to them than our abstract reasoning; these our constituents will easily form to themselves ideas of, when they know our votes; as the celebrated Dr. Johnson is said to have written speeches for members of Parliament whose general political sentiments he knew, by knowing these he applied arguments pretty accurately, as he supposed them to bear on every question offered. But, it has been observed, if we do not agree to have an official stenographer, a motion will be made to clear the House of those who now take down debates. These persons are tolerated only on the principle that our galleries are open. Woodfall, a celebrated printer, took down debates from memory; could we prevent this being done here? Or should we drive all printers from us who take notes, for the inaccuracies of some? I hope not. The liberty of the press has great title to respect. How can we agree by a miscellaneous union, the most strange, to commute with Mr. Brown, the printer, the salary of four thousand dollars, so as to possess him first of the proof-sheets, without supposing other printers will become rivals of this business, and complain if they are thwarted in an equal pursuit of their own livelihood? The best way is to leave this business, like others, to regulate itself. Mr. Brown, by his labor in this way, has already widely extended the circulation of his paper—evident in his present overture—and, by the by, this is no mean proof of correctness on the whole in his success; he or others will still go on to improve the business, if left to themselves. If he or they fall into errors, they are their own. Members may correct them, or write their own speeches out, if they please. But what has the House to do with this; or why should it become the censor and promulgator of the speeches of its own members? Our time is wasted often, already, by too many long discussions on unimportant objects; but what would it be if we were to be every morning saluted with motions to correct the performances of the stenographer of the preceding day? All the advantage of the motion is to obtain more accuracy; but, it is said, the House means not to pledge itself for this accuracy: if so, why employ an officer under its authority for this purpose? On the whole, sir, we shall in vain seek to escape abuse and misrepresentation; these are by far too much in vogue. All the consolation left is, what I usually apply in such cases—that is, the consciousness of not deserving them.

Mr. GILBERT was against the report. He thought the publication of the laws and the yeas and nays, a sufficient means to communicate the proceedings of the House.

Mr. WM. LYMAN said that the debates in one of the newspapers (he either named or plainly alluded to the *Philadelphia Gazette*) had, for the two

last sessions, been altogether exceptionable. He was sorry to learn that these debates had been collected by a person who comes here, so that they would now, perhaps, descend to posterity. If they were as incorrect in the volume (*The Political Register*) as they were in the newspaper, they were a libel on that House, and would disgrace it with the world. If this resolution was rejected, it would be advisable to send all the printers to the gallery.

Mr. KITCHELL was entirely against the object of the report.

Mr. GILES said, that he might have taken up wrong impressions, but he thought the matter worth trying. It was a thing of experiment, by which he believed that the printer would make money. He acknowledged that, for some time past, several of the reports had been pretty correct. It is better to let them go out as they are, than to stop them altogether. He would not wish to press the motion, if it was to meet with opposition from several gentlemen who had this day spoken against it. He moved that the Committee should rise, and the further consideration of the report be deferred till Monday.

Mr. W. SMITH said, it was admitted on all sides, that it was highly important for the people to receive the most accurate information of the proceedings of the House, and that the debates were, in general, extremely misrepresented. Was it not, then, the duty of the House to remedy this evil, and to adopt such measures as would transmit to the people in every part of the United States the most accurate information of the conduct of their Representatives? The House had now an opportunity of obtaining the services of a gentleman peculiarly distinguished for the rare talent of reporting with accuracy public debates; the compensation which would be adequate to such useful and laborious service, was beyond the ability of any printer; the House ought therefore to contribute towards it; the sum required was a trifle, when compared with the advantages; it was no object. The only question, then, was, whether the stenographer ought to be an officer of the House; in that capacity he certainly would be more easily restrained from the commission of any wilful misrepresentation. Mr. S. did not feel the force of the objections against the report. It had been said that, although the members were now misrepresented, yet, they had it in their power to publish corrections; but these corrections were often overlooked, while the misrepresentation was operating very injuriously to the character of the member; this was generally the case in places remote from the seat of Government; the mangled account of a debate was republished in a distant paper, and the correction, if it reached the distant printer, was generally disregarded. Among the opponents to this report, Mr. S. said he was surprised to find the gentleman who represented this city, [Mr. SWANWICK,] who, more than any other member, should have withdrawn his opposition to the measure proposed; that gentleman's constituents had it in their power, at any time, to hear the debates of Congress; they were on the spot; ought

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he not, then, in candor, to assist in facilitating to the remote citizens the means of obtaining the best knowledge of the proceedings, and the most correct statement of the discussions of the House? Ought they, from their remoteness, to be kept in the dark, or to be furnished with such light as would only mislead? Had they not a claim on the House to adopt such means as would enable the citizens in every State to judge of the propriety of public measures? The member from this city had another exclusive advantage; if misrepresented, he could correct the error, and the correction would be read; that was not the case with the members from the remoter States, whose reputation might be injured by misrepresentation, without a similar advantage: the member from this city was in the midst of his constituents; he had daily opportunities of setting right any misstatement by personal explanation.

Mr. SMITH said, he did not agree with some gentlemen, that it was sufficient for the people to know what laws were passed, without knowing the previous discussions; he thought, on the contrary, the favorable or unfavorable impression of a law on the public mind would depend in a great degree on the reasons assigned for and against it in debate, and the people ought to know those reasons. When a law passes, imposing a tax, would not the people be reconciled if they saw, from the discussions of the House, that such tax was unavoidable, and that the particular mode of taxation was the best which could be devised? And ought this information to depend entirely on the caprice or convenience of the reporters, who attended when it pleased them, and who published just as much of the debate as they found leisure or patience to accomplish? Mr. S. said he was convinced that the errors which had excited so much complaint were not the effect of design, but merely of inadequacy to the task. Very few were competent to such a business, which required peculiar skill in stenography, very laborious application, and a clear comprehension of the subject-matter of debate. It could not be expected that persons thus qualified would devote their whole time to this business without an ample reward. The report was objected to because there was novelty in the plan: it was true the House of Commons of England had no such officer, but their practice was not a fit precedent for us on this occasion, for they admitted no person to write down, in the House, their proceedings; their debates were taken from memory. This House, on the contrary, had, from its first institution, facilitated, by every accommodation, the reporting their proceedings. The thing was not altogether, however, without precedent. During the existence of the National Assembly of France, there were officers of the House who composed a daily work called the *Logography*, which was an exact account of the debates of that body. It had been asked, what control the House were to have over this officer? He answered that the stenographer would be liable to be censured or displaced, if he should be guilty of wilful misrepresentation. It would be always easy to discriminate between a casual inadvertence and a

criminal misstatement: the officer's character and talents, his responsibility to the House, and his oath to report with impartiality, would be a sufficient pledge of his accuracy. Mr. S. seriously believed that the character of the House had suffered from the erroneous statements which had gone abroad. He wished to guard against this evil in future; he was willing, for himself, that every syllable he uttered within those walls should be carried to every part of the Union, but he deprecated misrepresentation. He was anxious that the truth should be known in relation to every act of the Government; for he was as satisfied that the affection and confidence of the people in this Government would increase with the promulgation of truth, as that whatever it had lost of that affection and confidence was owing altogether to the propagation of detraction and calumny. It was under these impressions that he had originally brought forward the proposition and that he now recommended the report, and having heard no reasons to change his sentiments of the expediency of the measure, he should persist in supporting it.

The motion by Mr. GILES was agreed to. The Committee rose, and, a few minutes after, the House adjourned to Monday.

MONDAY, February 1.

The appropriation bill was received from the Senate with amendments. None of importance; the most material one is a proposed appropriation of thirteen thousand dollars, instead of ten thousand, for the purchase of copper for the Mint.—Ordered to lie on the table.

Mr. HARPER laid on the table a resolution, in substance as follows:

"Resolved, That such reports, as well from Heads of Departments as select committees, as are important to explain the acts of Government, be published at the expense of the United States."

INDIAN TRADING HOUSES.

The engrossed bill for establishing trading houses for the Indian tribes was taken into consideration. The first blank was for the gross sum to be appropriated for the general objects of the bill. It was moved to fill this blank with \$150,000.

Mr. WILLIAMS spoke in favor of the bill.

Mr. SWIFT stated some general objections to an appropriation at the present time. The bill had been postponed for the purpose of obtaining further information from the Committee of Ways and Means relative to the actual state of the finances; this information is not yet received, and considering the great sums that must be raised and appropriated for other objects, he conceived that a further postponement was necessary. He moved that it should be postponed to the third Tuesday in February.

Mr. S. SMITH urged the necessity of an immediate decision, in order to answering the object of the bill in any degree whatever. He recited a passage from the Report of the Secretary of the Treasury, to show that the funds were not so de-

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ficient as the gentleman had stated; but all objection on this account was done away by the plan which he was well assured was before the Committee of Ways and Means, and that was, a reduction of the Military Establishment, by which means a sufficient sum would be found without having recourse to new taxes. The goods ought to have been written for last September. There is, perhaps, just time enough left to procure them, but any further delay will totally defeat the salutary purposes of the bill.

Mr. GILES asked, if voting the money would raise it? He did not suppose that a delay of a few days would make any difference in regard to the final object. He confessed he had his objections to the principle of the bill; he did not consider the plan calculated to produce the effects anticipated from it.

Mr. MILLHOUSE urged a speedy decision. The gentleman from Virginia says, that voting the money will not procure it, but will the money be realized unless it is voted? Mr. H., alluding to the retrenchment of public expenses by the proposed reduction of the Military Establishment, said there would be no difficulty about raising the money; but the money will not be immediately wanted. The Government will not be the importer of the goods. Some merchant will probably be employed for this purpose, and the payment called for at a future day. He urged the necessity of despatch.

Mr. PARKER supported the general provision of the bill, and urged the necessity of an immediate attention to the subject. He calculated on a surplus in the appropriation for the War Department to provide for this object.

Mr. HARPER moved that the bill should be re-committed. He then entered into a general consideration of the principles of the bill, which he reprobated altogether. Alluding to the general objects of commerce, he said that public bodies never manage these matters without loss. He adverted to the repairs of roads, construction of canals, &c.; all these objects prosper under private individual direction, but when entered into by public bodies nothing is ever brought to perfection, and the public money is lost. He applied these ideas to the plan of the bill. Persons at fifteen hundred or two thousand miles' distance, are to be intrusted with public property to a large amount. It is not in human wisdom to guard against frauds and impositions; no check or control can be devised which will be found adequate to repressing private rapacity. Mr. H., therefore, wished the bill re-committed, for the purpose of an entire new modification. If the motion should obtain, he should then move a resolution providing for a loan to individuals for the purpose.

Mr. SWANWICK supported the general principle of the bill, and reprobated the idea of loans to individuals; he considered such a plan as one of the worst kind of sinking funds. The plan is an experiment; it is not, perhaps, possible to predict what will be the result; but the object is worth the trial and worthy the attention of the Legislature. He considered the objections against the

plan of the bill as applying with greater force against the proposed substitute.

Mr. S. SMITH said, when the gentleman from South Carolina made his motion for a recommitment, he had supposed he would have accompanied the motion with some reasons; but since he had heard what he offered as reasons, he found himself confirmed in his opinion of the inexpediency of his motion. Mr. S. said, the only reason for the commitment was, that the principle of the bill might be changed, by individuals being substituted for the Government, that is, by loaning the money to private persons for the purposes of the trade. He was entirely opposed to this principle. Public debtors are the worst kind of citizens. These persons, after having expended or lost the money, will be coming forward with their petitions to be released from their bonds. He did not wish to increase the business of the Committee of Claims.

Mr. SWIFT enlarged on the idea suggested by Mr. HARPER. He thought it infinitely preferable to leave the business to the enterprise and resources of individuals.

Mr. HARPER rose in reply to Mr. SMITH. He entered into a further consideration and defence of the plan he had proposed as a substitute.

Mr. DEARBORN objected to Mr. HARPER's idea; he saw no sufficient reasons to support the preference that gentleman gave to a loan to individuals. He was in favor of the general principles of the bill; he thought it economical to appropriate money for the object of cultivating good understanding and harmony with the Indians, but should vote for the bill only on the condition of a reduction of the Military Establishment.

Mr. GILES entered more largely into a consideration of the principle of the bill. He had no opinion of Governmental bargains—he believed they always turned out losing bargains. The clause which provides that the original stock shall not be diminished, he conceived, would operate against the general object of the bill, if adhered to; but this he did not contemplate; he supposed that it would terminate in an annual provision. Mr. G. alluded to the PRESIDENT's Speech, a clause of which had been recited; he did not consider that, or a former recommendation of this matter, as binding on the House. If the PRESIDENT's Speech is considered as the political Bible of the Government, the case is different; but he presumed no person was disposed to assert this. He considered the House as perfectly free to adopt or reject the proposition. With respect to the effects of the measure, gentlemen had differed in their predictions. Predictions which were the nearest to the effects produced, may be considered as the result of the greater political sagacity. He would venture to predict that the whole sum proposed to be appropriated would be sunk in three years. With respect to the fund contemplated from the surplus of the War Department appropriation, he considered it as altogether illusory; there is no such surplus, none had heretofore been found, and he presumed none ever would. For though the number of troops voted had never been raised, yet the

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whole of the money appropriated was always expended.

Some further remarks were made by several members, and then the motion for recommitting the bill being put, was lost—52 to 34.

Mr. SWIFT then renewed his motion for a postponement. This, after a few remarks from that gentleman, and a short reply from Mr. GILBERT, in support of the bill, was negatived.

The motion for filling the blank with \$150,000, was then put and agreed to, fifty-six members rising in the affirmative.

On reading the section in which the blank for the penalty is included, Mr. VENABLE moved for a partial recommitment of the bill, for the purpose of new-modifying the section. This motion gave rise to a variety of observations, in the course of which the motion was extended to a general commitment. This motion being put, was lost.

The motion then was, to recommit the second, fourth, and sixth sections. The second section was recommitment. The fourth section provides that the capital stock of the United States embarked in this business shall not be diminished. Mr. VENABLE's object was to have the section so modified as to blend the interest of the individual who is to conduct the business with that of the public. Mr. S. SMITH said the motion went to destroy the bill, for no person would engage in the business on such a plan. The motion for committing the fourth section was lost. The sixth section assigns the sum of \$150,000 to be appropriated for the general objects of the bill. The motion to recommit this section was negatived.

The House then resolved itself into a Committee of the Whole on the second section, Mr. MULLENBERG in the Chair.

Mr. VENABLE moved that the section should be altered to read, that the agent should give bonds to the amount in value of the goods committed to his charge.

Mr. J. SMITH supposed that the sum should be sufficient to cover the amount of the goods which may at any time be found in the hands of the agents; from ten to fifteen or twenty thousand dollars, he supposed, might be sufficient for this purpose.

Mr. DEARBORN suggested the idea of leaving this part of the business to the PRESIDENT OF THE UNITED STATES. He moved to amend the clause accordingly.

Mr. VENABLE's motion was lost. Mr. DEARBORN's motion was agreed to.

The Committee then rose, and the Chairman reported the amendment, which was adopted by the House. It was then ordered that the bill be again engrossed and read the third time to-day.

[The bill was subsequently read a third time and passed—58 members rising in the affirmative.]

TUESDAY, February 2.

Mr. NEW and Mr. ISAAC SMITH were appointed a committee on the part of the House to examine the enrolled bills. A message was afterwards received from the Senate, informing the House of

their having appointed Mr. PAINE for the like purpose on their part.

The amendments of the Senate to the appropriation bill were taken into consideration, and agreed to.

On motion of Mr. SMITH, of South Carolina, the Committee of the Whole was discharged from any further proceedings on the report of the select committee relative to the appointment of a Stenographer to the House.

Mr. HARPER called up a motion laid on the table yesterday, the purport of which is, that such reports from the Heads of Departments and select committees, as may conduce to explaining and understanding the laws, should be published at the expense of the United States. The motion being read, Mr. H. moved that it should be referred to a select committee.

Mr. VARNUM objected to the motion. He did not see what purpose would be answered by it. The laws are sufficiently explicit. He did not suppose they would be rendered more so by printing the reports.

Mr. SHERBURNE suggested the propriety of extending the resolution to the first, second, and fourth volumes of the Journals of the Congress under the Confederation. This idea was reduced to a motion that the committee should be instructed accordingly.

The motion for a reference to a select committee was agreed to. Also, that the committee be instructed to report on the expediency of republishing the above volumes of the Journals of the old Congress. A committee of three was appointed.

The following message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen, of the Senate, and
of the House of Representatives:*

I transmit herewith the copy of a letter, dated the 19th of December last, from Governor Blount to the Secretary of War, stating the avowed and daring designs of certain persons to take possession of lands belonging to the Cherokees, and which the United States have, by treaty, solemnly guaranteed to that nation. The injustice of such intrusions, and the mischievous consequences which must necessarily result therefrom, demand that effectual provision be made to prevent them.

G. WASHINGTON.

UNITED STATES, February 2, 1796.

The said Message and Letter were read, and ordered to be referred to the Committee of the Whole House to whom is committed the bill to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers.

INTERCOURSE WITH THE INDIANS.

The House then went into Committee of the Whole, on the bill to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers.

The first section of the bill came under consideration. This refers particularly to the line laid down in treaties already concluded.

Mr. NICHOLAS moved to strike out the word "said," referring to the ideal line in the treaties. He remarked, that treaties were now holding for the purpose of forming an actual line of demarcation, which might be very different from that recognised by existing treaties.

Mr. HILLHOUSE supported the clause in its present form. He remarked, that the reference to the line laid down in the treaties was of the utmost consequence to the objects of the bill. The design is to recognise, in a summary and pointed manner, the line of demarcation. This law is to serve as a directory to the people on the frontiers, and will be sent into the Indian country. This will be a simple mode of bringing into one view the stipulations of the several treaties relative to this important point.

Mr. DAYTON objected to the section on account of its connexion with the preamble to the bill, which is not in itself binding.

Mr. GREENUP said the section stood, in his opinion, perfectly well; if it is amended, it will leave the business in such a state of uncertainty as will defeat all the salutary purposes of the bill.

Mr. NICHOLAS said, that his motion, so far from producing the uncertainty anticipated by the gentleman, would have the direct contrary effect. This motion went to enlarge, not to narrow the provision for guarding against the violation of the line so much dreaded.

Mr. GALLATIN and Mr. VENABLE supported the motion for striking out.

Mr. TRACY remarked that the only reason for striking out the word appeared to be, that other Treaties may be made which would alter the line; he saw no great force in the objection. The clause provides that the PRESIDENT OF THE UNITED STATES shall ascertain and cause the line to be marked. That is surely desirable. Should the line be afterwards altered by subsequent Treaties, the new line will then be marked under the direction of the PRESIDENT. This will then become the line. And he conceived that there was the utmost propriety in referring to such line in the most plain and positive terms.

Mr. FINDLEY thought the reference in the clause to the preamble might be of use, and could certainly do no injury. He was against the amendment.

The motion for striking out was negatived.

Some amendments took place in the second section on motion of Mr. HILLHOUSE.

Mr. MILLEDGE moved to amend the clause which prohibits the citizens of the United States from crossing the line for the purpose of hunting and destroying the game. He said if this provision is restrained, it will be necessary to remove all the citizens on the frontiers at least twenty miles within the line.

Mr. HILLHOUSE recited the clause of an Indian Treaty, in which the United States had expressly stipulated with the Indians, that their citizens should be restrained in this particular point. He said this very circumstance is the occasion of the greatest difficulty with respect to the Indians; they were fully sensible of it, and well understood the

restrictions which were imposed, and it would be attended with the most pernicious consequences to give the occasion to find fault with the Government in this respect.

Mr. MILLEDGE's motion was not agreed to.

The Committee made various amendments in the course of the discussion. Without finishing, they rose and reported progress. Adjourned.

WEDNESDAY, February 3.

LEWEL BENTON, from South Carolina, appeared, was qualified, and took his seat.

Mr. W. SMITH reported a bill further extending the time of receiving on Loan the Domestic Debt of the United States. It is proposed by this bill to extend the time to the 31st day of December next. Twice read and committed.

DISCOVERY OF THE LONGITUDE.

A report on the petition of Frederick Guyer was read. This petition was for pecuniary aid from Government to enable him to prosecute his researches for the discovery of the longitude by lunar observations. The report is against the prayer of the petition—the compliance therewith being considered by the Committee as unconstitutional.

Mr. PAGE moved that the report should be accepted. He observed that the principle contained in it, if adopted by the House, would, in future, save Congress from similar applications.

Mr. SEDGWICK said, if the object of the gentleman was to have the report placed on the Journal, and to be considered as establishing a principle, he should have his doubts as to its propriety. He should be sorry to have it established as a principle, that this Government cannot Constitutionally extend its fostering aid to the useful arts and discoveries; he did not think that it was true that the Government had not such a power; he, however, was not prepared at present to go into the discussion of the subject. He should have no objection to agree to the report on the principle which had been mentioned: That it did not appear that the object was probably attainable by the plan of the petitioner. The petitioner had leave to withdraw his petition.

INTERCOURSE WITH THE INDIANS.

The order of the day, on the bill to regulate trade and intercourse with the Indian tribes, was called up.

Mr. GALLATIN moved, if it was in order [the SPEAKER said it was,] that the Committee of the Whole should be discharged from any further proceedings on the bill, and that it be recommitted to the select committee. He grounded his motion on the motion of amendment brought forward yesterday, founded on the Message from the PRESIDENT OF THE UNITED STATES, and on a report of the Attorney General, which, though it had not been formally communicated, had been shown to a particular gentleman of the House. It was understood that the amendment referred to respected the line of demarcation.

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Mr. HILLHOUSE saw no use in recommitting the bill to the select committee; no amendment had been proposed which he did not suppose could be made in the Committee of the Whole.

Mr. HARPER, who seconded the motion of commitment, said he saw no impropriety in sending the bill back to the select committee—much light had been thrown on the subject in the course of the discussion, and it was the duty of the House to avail itself of this light. Due deliberation on this important bill was certainly highly necessary, and if further information should arise in a subsequent stage of the business, he should be in favor of a new recommitment.

Mr. GILES was in favor of the recommitment, and if that motion should fail, he should then move for a postponement. The treaty referred to in the bill has never been officially before the House. He referred to General Wayne's Treaty.

Mr. SENDWICK saw no purpose that could be answered in a recommitment. It is not pretended that there is any information to be received which is not already in possession of the House. After recommitting, in the present state of the subject, the select committee will bring in the same report which is already before us.

The SPEAKER here informed the House that the Treaty had been printed, and laid on the desk of every member; but had not been formally laid before the House. This was exactly the state of the matter.

Mr. HILLHOUSE said, that the motion to recommit in this stage of the business was not agreeable to the practice of the House, and conveyed an oblique censure on the select committee.

Mr. DEARBORN said, he did not suppose the committee had neglected to avail itself of all the information within its reach; but as there had been a great variety of opinions expressed in the Committee of the Whole, for the sake of greater unanimity, he should wish to have the bill recommitment, and that an addition of two members be made to the committee.

Mr. SWANWICK supported the motion on the ground that the bill was predicated on a Treaty which was not before the House.

Mr. GALLATIN asked if it would be in order to offer a motion grounded on a public document (referring to the Treaty) which is not before the House. The SPEAKER said it would not be in order.

Mr. HEATH was opposed to the recommitment; he considered it as a retrograde movement, and compared the proposition to Dr. FRANKLIN's carriage with horses before and behind; Congressional business progresses too slowly; he hoped the Committee of the Whole would be suffered to proceed; he saw no difficulty in the way of maturing the bill in the Committee of the Whole.

The motion for recommitting was agreed to, and the committee enlarged so as to consist of a member from each State.

Mr. BLOUNT then moved the following in substance: That the above committee be instructed to inquire and report, by bill or otherwise, whether any and what relief ought to be granted to persons

claiming lands on the Southwestern Territory, purchased from the State of North Carolina; which lands, since they had been purchased, had been ceded by Treaty to the Indians.

This motion was agreed to.

Mr. S. SMITH observed, that the bill was predicated on the Treaty made by General Wayne with the Indians. He doubted the propriety of proceeding on a public document not in possession of the House. It had been laid before the members nobody knew how.

Mr. BOURNE said, the Constitution was silent as to the mode to be adopted respecting the promulgation of Treaties after they had become the supreme laws of the land. He supposed the printing and publishing the same, accompanied with a proclamation, was sufficient ground for the House to go upon in relation to any acts or appropriations which were rendered necessary in consequence of such Treaties.

The SPEAKER here interposed by observing, that there was no question before the House.

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The House then went into Committee of the Whole on the report of the select committee relative to the Federal city. This report concludes with the following resolutions:

"Resolved, That the President of the United States be authorized to borrow such sums as, in his judgment, may be necessary (not exceeding the sum of five hundred thousand dollars in the whole, and not exceeding two hundred thousand dollars in any one year) for completing the buildings requisite for the accommodation of the Government of the United States, at the city of Washington; the said Loan to be secured on the public property in the said city, and at such rate of interest as he may judge expedient, and payable at such time or times as he may judge proper, after the year one thousand eight hundred; and that the United States guarantee to the money-lenders, that in case the property so pledged shall prove inadequate, the United States will make good the deficiency.

"Resolved, That it shall be the duty of the Commissioners appointed by virtue of the act, entitled 'An act for establishing the temporary and permanent Seat of the Government of the United States,' every six months to render to the Secretary of the Treasury a particular account of the receipts and expenditures of all moneys entrusted to them; and, also, the progress and state of the business and the state of the funds in their hands; and generally an account of their administration; and that the said Secretary lay the same before Congress at the next session after the same shall be received; and that a bill or bills be brought in accordingly."

The Message of the PRESIDENT on this subject—a particular detail of the progress of the public buildings, state of the funds in the hands of the Commissioners, &c., signed Alexander White; and the act for establishing the temporary and permanent Seat of the Government of the United States, on motion by Mr. J. SMITH, were read.

Mr. J. SMITH, Chairman of the select committee, who had made the report, said, that the reading of the papers had been called for, that the Committee of the Whole might have a full view of

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the whole subject before them, that they might be able more fully to judge of the propriety of the report. The committee had proposed a Loan on the principle of economy. Mr. SMITH and Mr. SWIFT called for the reading of several other papers—these were accounts of the expenses hitherto incurred, balances due to the Commissioners, &c.

The first resolution was then read.

Mr. SWIFT observed, that he would not propose any thing which should tend to contravene the act for establishing the permanent seat of the Government of the United States. He was willing that that act should be carried into execution, but then he was not willing to go to any unnecessary expense to effect the object.

He stated some objections to the resolution; he did not think that a Loan was necessary for the purposes of the act. The funds in the hands of the Commissioners, he said, are sufficient to complete the public buildings in such manner as to accommodate Congress at the period pointed out. He referred to the details of the funds which had been read. Another objection he had to the first resolution, was the discretion vested in the PRESIDENT to institute a Loan at an indefinite rate of interest—another objection to the resolution, in his mind, was the guarantee of the Loan by the United States.

He was averse from the Government's being implicated in this business; he believed it was entirely unprecedented. Adverting to the idea of the lots being enhanced in price at a future day, he very much doubted the accuracy of this. He was rather of opinion that the Government would eventually be obliged to make good the whole Loan. On the whole, he thought it best for the Government to have nothing to do with the business, but to leave the management of it to the Commissioners by the aid of the funds in their hands; with economy they will be sufficient; but the more money there is granted, the less will be the economy in expending it.

Mr. MURRAY said, that the gentleman had taken the only ground which he believed could be taken to set aside the report of the committee, and that was that due economy had not been observed in the expenditures already made; he believed he would be puzzled extremely to substantiate this idea to the amount of one shilling.

Mr. M. said, that no public money to the amount of one shilling had hitherto been expended on the Federal city; nor is any public money now asked for. The object of the resolution is simply a Loan—a Loan on terms that individuals would think eligible. Adverting to the objection on account of the interest, he did not suppose with the gentleman that ten, fifteen, or twenty per centum would be necessary; he had been informed that it could be procured for eight per centum.

Taking a general view of the subject, he remarked, that all that was asked, was as little as could be expected. It is not a grant, a gift; it is simply to guarantee a loan for a public economical purpose.

Mr. GALLATIN objected to the indefiniteness of the rate of interest. He said it would militate

against the loans proposed by the Secretary of the Treasury. He moved that the resolution should be amended so as to express the rate of interest at six per cent.

Mr. BRENT said he hoped that the motion would not obtain. The sum of 500,000 dollars is so inconsiderable compared with the loans contemplated by the Secretary of the Treasury, amounting to six millions; that the rate of interest on Governmental loans could not be supposed to be effected by a rate of eight, ten, or twelve per cent. for the sum mentioned in the report. The security he considered so good, that the money would be immediately obtained, and the reimbursement made with ease at almost any rate of interest. He supposed the economy of the plan was so obvious, that no man who was disposed to comply with the act for establishing the permanent Seat of Government, would oppose it. Mr. B. then adverted to the objections offered by Mr. SWIFT, and entered into a general statement of the affairs of the city, to show the policy and expediency of adopting the report of the committee.

The SPEAKER here remarked, that the merits of the report were not under consideration, on which Mr. BRENT waived any further observations.

Mr. W. SMITH stated the difficulties that would result from not restricting the rate of interest. He said it was unprecedented in the practice of the Government; even in the loan for the benevolent purpose of making peace with Algiers, the rate of interest was fixed at five per cent. He adverted to the principle of the report, and said that when the permanent Seat of Government was first agitated, assurances were given that the United States would never be called upon for any pecuniary assistance. It has been said that the money is not now asked for; but only the guarantee of a loan; he observed on this, that the Government ought to make the same calculations as it would were the payment inevitable on its part, for the public faith should be pledged to make good any deficiency that may happen. Mr. S. was proceeding, when

Mr. BRENT rose and said, he would withdraw his opposition to the motion. He was willing that six per cent. should be inserted.

Mr. GILES moved that a blank should be left for the rate of interest. Mr. GALLATIN consented to vary his motion accordingly.

Mr. HARPER, adverting to the period when payment of the instalment shall commence, observed, that in the year eighteen hundred, the United States would be called upon for the sum of 1,200,000 dollars, on account of the deferred debt, &c. He moved that the term should be left blank.

Mr. W. SMITH seconded this motion.

Mr. J. SMITH said, that it was not to be supposed that the United States would be called upon to pay one farthing of the loan. If the measure proposed should be adopted, the property in the Federal City will immediately rise in value; but if it fails, it will paralyze the whole business.

Mr. CRABB said, he hoped the report would not

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be altered. No man can seriously suppose that the United States will ever be called upon to reimburse one shilling of this money. The property is now the public property, and every principle of prudence and economy forbids that it should now be sold. But if the public faith is supported for fixing the permanent Seat of Government, the property at the period when the instalments become due, when the Government removes to the Federal City, will be so enhanced in value as to furnish a sum much more than amply sufficient for the purpose of reimbursement.

The term of repayment was finally left blank.

Mr. SWIFT then moved to strike out the sums of 500,000 and 200,000, before the word dollars, and leave blanks.

A motion for the Committee rising prevented any further discussion. They rose, reported progress, and had leave to sit again.

THURSDAY, February 4.

Mr. HARPER, after a considerable preparatory address relative to the Excise Laws, in which he recited the difficulties, embarrassments, and perplexities attending the execution of those laws, offered three resolutions, the objects of which are,

1st. To transfer the duties from the commodities to the instruments or machines used.

2d. To transfer the collection to the collectors of the State taxes.

3d. To give the State Courts cognizance of causes arising under those laws. Laid on the table.

Mr. W. SMITH, of the Committee of Ways and Means, brought in a report relative to reinforcing the existing provisions for reducing the Public Debt. This report contains several resolutions on the subject; they were twice read and committed for Monday next.

PERMANENT SEAT OF GOVERNMENT.

The House then went into Committee of the Whole on the report of the select committee relative to the Federal City.

The motion for striking out the sums of 500,000 and 200,000, before the word dollars, in the first resolution, under consideration.

Mr. MACON supported the motion for striking out. He offered some objections to the general scale of expenses.

Mr. FINDLEY said he was against striking out. He was on the select committee, and recited the motives which had governed them in the report they had brought forward. The question submitted was not whether what had been done was proper or not, but what was necessary to complete the plan already begun. The committee had thought proper to report the sum of 500,000 dollars in order to draw the attention of the House more particularly to the object for which the money was wanted. Mr. F. thought it was always disgraceful to a Legislative body to make appropriations which fall short; the consequence always was further applications. The resolution only empowers the President to borrow the sum, but it does not follow that it will be all bor-

rowed or expended. He said the sum might be struck out, and reinserted again, but he saw no good purpose that would be answered by this.

Mr. NICHOLAS was opposed to striking out. He supposed that if a sacrifice of the public property was not determined on, there would be no hesitation in making a liberal provision: a niggardly supply on the other hand would necessarily produce that effect.

Mr. CRABB. Mr. Chairman, I flatter myself that the words five hundred thousand will not be struck out on any principle, but more especially on the one suggested by the gentleman from North Carolina. What, sir, is the object meant to be obtained by the memorial on which the resolution now before you is grounded? Is it not a reserve of the public property, under the well-founded expectation of a rise in its value? This will not, cannot be controverted. Then let us examine the proposition for annual loans and annual guaranties, and we shall find the completion of this desirable measure in a great extent defeated, should we adopt that proposition. For, inasmuch as the public confidence will be diminished by this parsimonious mode of legislation that will require annual Legislative aid, as certainly will it operate as a check on the rise of public property. If the present application of the City Commissioners is fully and completely gratified, public confidence will be fully established; but if left dependent on the passions and prejudices of future Legislatures, I apprehend it will not.

The gentleman from Connecticut, with whom this motion for striking out originated, yesterday more than intimated a waste and extravagant expenditure of the funds that had already been in the possession of the Commissioners. If this is a fact, as the gentleman has made the charge, it becomes a duty in him to designate and point out the particular objects of abuse, and that might lead to a correction of them; but round assertions, [unsupported by proof, can have no good effect, and may tend to injure the reputation and interest of your public agents, and at all events, must wound their feelings, perhaps unjustly. For a moment reflect on the nature and origin of these funds, and I am persuaded the Committee will think with me, that expenditures hitherto made by the Commissioners, under the direction of the President, is hardly a proper subject for examination by this Committee. For, sir, it is well known that not one cent has yet been expended by the Union for the progress or accomplishment of this great national object. But the funds applied have arisen from donations, or grants of lots by private citizens of Maryland, and by voluntary liberal donations from the States of Virginia and Maryland, accompanied by acts of the granting Legislatures, that required annual accounts of the expenditure. Then, sir, it follows, that the Legislatures that made those grants, are the proper bodies to make this scrutiny. When the United States have made grants, or guaranteed loans to cherish and increase the city funds, and thereby become responsible, then,

sir, will that kind of discussion be proper: before that it appears premature. The necessity of this application on the part of the Commissioners is objected to. I will not contend for the necessity. I think none existed. Nor was it policy, unless certain of success. Yet I feel satisfied that it is sound policy in the General Government to aid and assist the funds by complying with the resolution. Sure, I am, that if the application had not been made, the city property was commensurate to all the public objects required; and no doubts rest on my mind, if the resolution passes, but that it will increase the funds far beyond the necessary demands: but I feel it a duty to declare, that I much doubt the sufficiency of the funds, provided this application should, from an ill-timed illiberal, contracted policy, miscarry. The refusal of this small parental aid would strongly convey the idea, and enforce belief, that the General Government was not serious, not firmly fixed in their purpose of making the present location the permanent Seat of Congress. Consequently a sudden and dreadful fall of lots, the value of which depends on public opinion respecting that event.

And thus, sir, a sacrifice of the public interest must be the result of such mistaken policy. And, sir, from this loss, one of two evils must follow: that is, we must either have direct recourse to the Federal Treasury to supply this deficiency, or relinquish this momentous object, hitherto so solemnly adopted after the fullest discussion by the General Government. Sir, the first and least of these evils should be cautiously guarded against; but, sir, the second is an evil of that extent and magnitude, that no comprehension, however extensive, can by anticipation arrive at the fatal result; nor no language, however strong, paint it in proper colors, to show fully its baneful effects; such a manifest, indecent, impolitic violation of public faith and private rights, acquired under the sanction of the original law, would shake the Union to the centre, if not burst asunder those political bands that so happily cement and bind this wide extended Union in the governmental compact—the sheet anchor of America, on which all her strength, wealth, and happiness must depend.

The motion for striking out 500,000 and 200,000 was carried, there is a blank consequently before the word “dollars;” no amendment was made to the second resolution.

The Committee rose and reported the two resolutions with the amendments to the first.

The amendments were taken into consideration by the House and agreed to.

The question then was on the first resolution as amended.

The debate was renewed on the general policy and expediency of the measure.

Mr. KIRCHELL was opposed to it. He said the public faith was sufficiently pledged by the act for establishing the permanent seat of Government. He did not suppose this would be more firmly secured by going into the measure. Adverting to the exigencies of the Government for

money, he considered the present as the most improper time to make any grants or loans; besides, he saw no necessity for them. The funds already in the hands of the Commissioners are sufficient to complete the buildings for the accommodation of Congress in season. If money should be wanted at a more favorable time, there was no doubt it would be granted; but at present he was opposed to doing anything in the matter.

Mr. J. SMITH said there was no doubt that Congress had a right to withhold their aid in this business at the present time, or any other: the only question is, whether the measure is expedient or not. The committee had thought it was on the principles of economy and sound policy.

The first resolution was agreed to, fifty-seven members rising in the affirmative.

The second resolution was also adopted. They were then referred to the select committee who brought in the report, to prepare and bring in a bill or bills.

The resolutions, as amended, are as follows:

Resolved, That the President of the United States be authorized to borrow such sums as, in his judgment, may be necessary (not exceeding the sum of — dollars in the whole, and not exceeding — in any one year) for completing the buildings requisite for the accommodation of the Government of the United States, at the city of Washington; the said loan to be secured on the public property in the said city, and at a rate of interest not exceeding — per cent., and payable at such time or times, as he may judge proper, after the year —; and that the United States guaranty to the money lenders, that in case the property, so pledged, shall prove inadequate, the United States will make good the deficiency.

Resolved, That it shall be the duty of the commissioners, appointed by virtue of the act, entitled “An act for establishing the temporary and permanent Seat of the Government of the United States,” every six months to render to the Secretary of the Treasury a particular account of the receipts and expenditures of all moneys intrusted to them; and, also the progress and state of the business, and the state of the funds in their hands; and, generally, an account of their administration; and that the said Secretary lay the same before Congress at the next session after the same shall be received.

CONTESTED ELECTION.

On motion of Mr. SWIFT, the House took up the report of the committee on the contested election of ISRAEL SMITH, one of the members of the State of Vermont. The report was read, which concludes thus: “That they are of opinion that ISRAEL SMITH is entitled to take his seat in this House.”

Mr. TRACY moved that the report should be re-committed. His reason for the motion was, that the petitioner might have an opportunity to bring forward *legal proof*, if such was the fact, that two towns, which had been deprived of the opportunity of voting, through the failure of notice on the part of the Sheriff, containing a sufficient number of freemen to have changed the result of the election. It appeared that the evidence of this fact had been taken *ex parte* by the petitioner.

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Militia Pensions—Arrearages of Army Pay.

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This motion occasioned a long, desultory conversation; in the course of which it was said that evidence had been laid before the committee (but which had not been admitted) that those two towns contained more than thirty persons entitled to vote. It was said, that if this was the case, the election ought to be set aside.

The reading of a great number of papers was called for. Among these were the certificates of the town clerks of Kingston and Hancock, stating the number of freemen in those towns, amounting to upwards of thirty. These certificates, it was said, were sufficient and legal evidence.

It was observed by Mr. J. SMITH that the first question to be determined appeared to him to be this: How far the omission of an officer to notify the citizens of one or more districts, ought to influence in vitiating an election.

Mr. TRACY withdrew his motion for re-commitment, and moved that the report be postponed; this was agreed to, and Monday assigned.

MILITIA PENSIONS.

A report of the Committee of Claims on the petition of John Griffin was taken up in Committee of the Whole. This report contains a resolution for placing on the pension list such non-commissioned officers, musicians, privates, and volunteers of the Militia as may be wounded or disabled when in actual service, called out by any law of the United States.

Mr. TRACY stated the reasons which had induced the committee to report this resolution. They were, among others, the uncertainty of the existing law, and the justice, policy, and expediency of the measure.

The report was agreed to and reported to the House. The House adopted the same, and the Committee of Claims was directed to bring in a bill accordingly.

FRIDAY, February 5.

Mr. WILLIAM SMITH reported a bill regulating the grants of lands appropriated for military services, and for the Society of United Brethren, incorporated for the purpose of propagating the Gospel among the Indians. This was twice read, and committed.

Mr. S. SMITH called up a resolution which he had laid on the table some time ago, and moved that it should be referred to the Committee of Commerce and Manufactures. The purport of the resolution is, that that committee be instructed to inquire and report whether any, and, if any, what, alterations may be proper to be made in the laws of the United States relative to commerce and navigation. The resolution was referred, pursuant to the motion.

Mr. MADISON, after some general remarks on the subject, offered a resolution, the purport of which is to authorize the PRESIDENT OF THE UNITED STATES to cause a survey of the main post road from Maine to Georgia—the expense to be defrayed out of the surplus revenue of the Post Office. Laid on the table.

BENJAMIN STROTHER.

A report of the Committee of Claims on the petition of Lieutenant Benjamin Strother was taken into consideration. This report refers the settlement of the claim of the petitioner to the accounting officers of the Treasury.

It appeared that the petitioner had marched a number of troops to the Army on a route on which there was no contractor, in consequence of which Mr. Strother had incurred expenses for the supply of the troops under his command. The vouchers for the charges had been destroyed by a fire which burnt the hut of the petitioner; all the evidence that he could now offer in support of his account was his oath. The report is founded on an opinion of the committee that no account ought to be allowed on the oath of any person.

The report occasioned some conversation, but was finally accepted, and a bill ordered pursuant thereto.

ARREARAGES OF ARMY PAY.

The House then went into Committee of the Whole on a report of the Committee of Claims, to whom had been referred a resolution respecting a list of arrearages of pay or other emoluments, which may appear by the books of the Treasury to be due to the officers and soldiers of the late Army of the United States for services performed during the late war. The report states various reasons for not instituting the inquiry proposed by the resolution.

Mr. GILES said, he supposed a book had been kept in the proper Department, in which a general view of the accounts of all persons employed by the public had been stated, but, to his astonishment, he found that no such book was in existence. A strong reason why such a book should have been kept might be drawn from the statement of the Accountant of the War Department, who says that persons had been twice paid, and that instances of this kind had come to his knowledge.

The committee say that the subject cannot be gone into without a repeal of the limitation acts. He acknowledged this, and he therefore supposed those acts should be partially repealed; for in many respects they appeared to him to operate unjustly. From the report, it appeared highly probable that there were arrearages due to many persons; this might be inferred from the deranged state of the business. If anything was due, justice demands that it should be paid. But, from what was disclosed, he was aware that it would be impossible to do anything the present session. He should, however, reflect on the subject, and prepare something in lieu of the resolution he had offered. There are, said he, about an hundred clerks in the Treasury Department; he supposed some of them might not be very busily employed at the present time, and he thought they might be advantageously engaged in digesting these accounts, and bringing forward the different balances.

Mr. WILLIAMS was in favor of agreeing to the report. He recited some facts to show that the business would probably result in the United States

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being called upon to pay a great number of accounts, which no principle of justice obliged them to discharge.

Mr. FINDLEY said, if the business was practicable, he should think nothing of the limitation acts; they might easily be set aside. But he was convinced, at this time of day, the statement wished for could be partially executed.

Mr. BALDWIN stated a variety of insuperable difficulties which would present themselves in prosecuting the investigation proposed.

Mr. CLAIBORNE spoke in favor of the investigation. He hoped that, because some culprits had imposed on the public, and been twice paid, that Government would not refuse to pay a just debt. He had rather pay ten times the sums than refuse justice to a man who had a claim on the country for actual services. He had always opposed limitation acts as unjust in the extreme; they had operated most injuriously. He felt peculiarly concerned on this occasion, and he hoped the inquiry would be made. There is a sufficient number of persons in the public service, at high salaries, to undertake the business, and he hoped it would not be lost sight of.

Mr. DEARBORN said he had not supposed that the books were in the situation exhibited in the report. He was not, however, prepared to vote in favor of the report; he was rather of opinion that something might be done.

Mr. TRACY said that the suspension of the limitation act was not the question before the Committee of Claims, but simply this: the expediency of making a list of the persons who may appear to have balances due to them. What purpose could such a list answer, but to afford an endless scope of speculation? The consequence would be, forging of powers of attorney without number, by which means thousands of persons would gain twenty dollars for what did not cost them half a dollar.

On this account, no such book as had been mentioned had been kept, and he rejoiced that this was the case. All the evils attendant on the publication of the list contemplated would have resulted from such a book; for all the care and secrecy that could have been used would not have prevented such a list from having been made. Adverting to the mighty mass of public papers that must be examined in the investigation proposed, he said that ten years would not be sufficient to complete the business. He then recapitulated the uncertainty, perplexity, and eventual injustice that would attend the work. A large box of papers had lately been found, which, on examination, proved to be settlements of accounts, the parties to which, he had no doubt, had entirely forgotten that any such documents were in existence.

Mr. GILES differed entirely from Mr. TRACY as to the effect which would result from framing the list referred to; he thought it would prevent speculation. Only persons interested would apply for information, and from such the information was improperly withheld. This uncertainty led persons to dispose of their claims below their value. He hoped the book he had first mentioned

would be made; he did not conceive it would require the time stated by the gentleman from Connecticut. The persons in the Treasury Department might easily adjust and reduce these accounts to a simple form in a much shorter period. He was, however, sensible that such was the present mode of keeping the accounts in the Treasury Department, that his resolution would not answer the purpose he had in view. He should, therefore, take an opportunity to reduce his opinion to a different form, in order to bring forward a measure that would reach the object.

Mr. HARPER remarked, that the report of the committee would not preclude any person from coming forward with a just claim. He saw no necessity for such a list as had been proposed; every man who had a demand against the public was fully sensible of it, and needed not any publication of a list to inform him. Mr. HARPER then adverted to the evils which would result from the forming such a list on account of the speculation which it would occasion. He instanced the experience of the State of South Carolina. He said he hoped the report of the committee would be agreed to.

Mr. DAYTON remarked, that it appeared to him to be very uncandid on the part of the gentlemen to attack a member on account of a resolution he had brought forward, when that member had himself withdrawn his support from it; he conceived that such conduct was indelicate and improper.

Mr. HARPER here rose and observed, that if he had said anything which implied the slightest imputation on the motives of the gentleman from Virginia, in bringing forward the resolution, he had been misunderstood—he meant no such thing. If his remarks were susceptible of such a construction, he asked the gentleman's pardon.

Mr. DAYTON replied that the remarks of the gentleman from South Carolina had struck his mind in the manner he had stated. He did conceive that it was entirely improper to take up the time of the House in discussing a resolution which was not supported by the original mover. While he was up, Mr. DAYTON said that he would just observe that he had the fullest confidence in the purity of the motives which had influenced the gentleman from Virginia; he had done what was strictly within the line of his duty. Adverting to the report, he observed, that though he did not object to it in all its parts, he was clearly of opinion that it was not well founded in stating that it was impossible to form the list mentioned. He thought such a list could easily be made, as the vouchers were in existence to establish the claims.

Mr. TRACY said that the committee had not said that it was impossible to make the list; such an intimation is contained in the Accountant's statement, but is not in the committee's report.

Mr. HARPER offered a few more remarks on what had fallen from the SPEAKER, in which he questioned the propriety of a member's being reflected on for offering such observations as he had offered on the report of the Committee of Claims.

The question being called for, the report of the Committee of Claims was agreed to.

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Case of Silas Clark.

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CASE OF SILAS CLARK.

The report of the Committee of Claims on the petition of Silas Clark was taken into consideration by the Committee of the Whole.

The report is against the prayer of the petition, which was for full half pay. The petitioner was a captain in the Massachusetts line, had returned his commutation, but was not allowed any interest on the certificates returned, so that he never derived any advantage from them. He is an invalid from wounds and disabilities incurred in the public service during the late war; his pension is only one-third of a captain's pay.

Mr. NICHOLAS proposed that a general provision should be made. By a calculation which Mr. NICHOLAS offered, he said the petitioner had, from some cause or other, made a bad bargain in consenting to give up his commutation in lieu of a pension of one-third of his full pay. He conceives that the claim was founded in justice, and supposed the case was not a solitary one.

Mr. HEISTER said that, according to *his* calculation, the bargain was in favor of the petitioner; the interest of his half pay did not amount to so much per annum as his pension. The pension is \$160 a year, the interest on the commutation is only \$144.

Mr. TRACY went into an extensive consideration of the subjects of commutation, half pay, and pensions. The petitioner had received the pension from the beginning, and was therefore not entitled to interest.

Mr. S. SMITH supported the claim of the petitioner. He recited some circumstances of the battle of Monmouth, in which this petitioner was wounded, and in which Captain Clark had borne a conspicuous part. He expatiated on the merits of the officers of the late Army. Adverting to commutation, he recited the circumstances under which it was given. Captain Clark had exchanged it for a pension, but, in doing this, he had, through ignorance, made a bad bargain; this is as demonstrable as figures can make it. Now, the question is, whether the Government shall take an advantage of this contract? He could not believe that it would; when fully informed of the circumstances, this Government will always allow and pay a just claim. Mr. SMITH said the petitioner was entitled to his half pay for serving through the war, and to his pension for his wounds and disabilities; and there was a third demand which he was entitled to, and that was for interest on his pension during the time he did not receive it.

Mr. NICHOLAS read a resolution which he would offer, if in order, in lieu of the report of the committee. The purport of this was to make a general provision. It was remarked that the report of the committee ought to be first disposed of.

Mr. SEDGWICK hoped the report of the committee would be accepted. He adverted to the frequent allusions to personal services, and said that the distinction which was made was not, in his opinion, either candid or just. Mr. S. asked what class or description of persons can be named who did not suffer by the events of the late war. The farmer,

the mechanic, the merchant—all suffered by the depreciation of the paper money. It was infinitely to be regretted that the officers and soldiers who carried us triumphantly through the glorious contest should not be paid every shilling due to them for their personal services; but it is also to be regretted that the farmer, the mechanic, and every other description of persons, who surrendered up their property to the call of the public did not receive an equivalent: they all made sacrifices, and were all victims to their patriotism in a greater or lesser degree. Can any man seriously contemplate a reimbursement of these losses, or compensation for these sacrifices? The attempt is impracticable, however desirable; it is entirely beyond the abilities of this country.

Mr. S. SMITH, in reply to Mr. SEDGWICK, said, there was a wide difference, in his opinion, between personal services and those which had been mentioned. While the soldier was fighting the battles of his country for a pittance, and suffering all the evils incident in his destitute and hazardous situation, his merit was infinitely superior to that of the farmer who sold his corn or his ox for paper money, or that of the merchant or mechanic who took the paper for the purpose of speculation.

Mr. HILLHOUSE said, that he thought it very extraordinary that the gentleman from Maryland should bring forward a charge of speculation against the persons who took paper money: all classes of persons took it voluntarily for a long time. The charge involved all the funds of the Revolution; for, unless they had given it a currency, the cause would have been lost. But this was not all. Did not the States make *tender* laws to compel the people to take the paper, and were not thousands ruined by it—thousands of as good friends to the Revolution as any description of persons whatever? He saw no good purpose to be answered by such comparisons.

Mr. J. SMITH said, he conceived that the two gentlemen who had lately spoken [Mr. S. SMITH and Mr. NICHOLAS] did not understand the subject. These gentlemen had blended two things which ought to be kept separate and distinct, viz: the engagement on the part of Congress to give half-pay to the officers who should serve to the end of the war, which was afterwards, by agreement, commuted for five years' whole pay, and the engagement to give a pension to such officers as should have the misfortune to be wounded or otherwise disabled in the service. Mr. S. considered these engagements as referring to two different classes of men, viz: able and sound men, and invalids. Those of the former description who should continue in the service to the end of the war were promised half-pay for life; those who were disabled in the service were allowed to retire upon a pension. No man was obliged, against his will, to be placed on the pension establishment; and the fact was, that numbers of officers who were wounded, either from patriotic motives, or other views, chose to be considered as sound and able men, and received the emoluments of such full pay and the commutation. They could not surely complain that they, though disabled, were still

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allowed the emoluments of able-bodied and sound men. But they cannot be, at the same time, of both descriptions—both able and disabled. If the journals or acts of the Government were examined, Mr. S. was confident that this would be found to be the sense of the Government. If an officer had the misfortune to be wounded in the service, he might retire, and receive the reward promised to the disabled. If he chose to continue in the service as an able man, and the public were pleased to permit him to do so, and to accept of his services as such, he was at liberty to continue, and receive the emoluments of the able officer who served through the war. Mr. S. threw these ideas out for the consideration of gentlemen, and should be obliged to those who would set him right, if he was wrong. He conceived that it was not the intention of gentlemen to take the question immediately, for the usual hour of adjournment had arrived: he moved that the Committee rise and report progress.

The Committee accordingly rose, reported progress, and had leave to sit again.

MONDAY, February 8.

Mr. TRACY, from the Committee of Claims, presented a bill for the relief of certain officers and soldiers who have been wounded or disabled in the actual service of the United States; which was read twice and committed.

Mr. HENDERSON moved a resolution in nearly the following words:

“Resolved, That the Committee of Revisal and Unfinished Business be instructed to inquire into the number of clerks that are now employed in the Department of the Treasury, the Department of State, and the War Department, and that they inquire into the number of clerks that, in their opinion, may be necessary for the services annexed to those Departments and offices, and that they make report thereon.”

The resolution was agreed to.

Mr. SHERBURNE took notice of the very great expense attending the present mode of payment of the interest on the Domestic Debt, and, with a view to remedy the evil, moved—

“That the Committee of Ways and Means do inquire whether any and what alterations and amendments are necessary in the mode of paying the interest of the National Debt.”

Mr. MURRAY moved, “that a committee be appointed to inquire whether any, and what, alterations are necessary in the offices of the Government of the United States.” Ordered to lie on the table.

THE PUBLIC DEBT.

Mr. W. SMITH moved for the order of the day for taking into consideration the bill for further extending the time for receiving on Loan the National Debt of the United States. The House accordingly formed itself into a Committee of the Whole, read the bill, and agreed to it without amendment. The House being again resumed, Mr. SWIFT requested the bill might lie over till

to-morrow, as he wished then to propose an amendment. Agreed to.

The report on the petition of Silas Clark was taken up again in Committee of the Whole, and a resolution adopted that the petitioner have leave to withdraw his petition.

COMPENSATION OF MEMBERS.

The House resolved itself into a Committee of the Whole, on the bill for allowing a compensation to the members of both Houses, which proposes an annual salary of one thousand dollars to each member, instead of six dollars per day.

Mr. GILES moved that the word “annually” be expunged from the bill. He thought the present mode of compensating the members of the Legislature a good one, and could not conceive why an alteration should be made. Such a mode of payment as was now proposed ought to be sanctioned only upon the maturest deliberation.

Mr. GOODRICH explained the reasons which induced the Committee to propose an annual instead of a daily payment to members, which was, that members might be induced to greater despatch in business, and to do away an idea which had gone abroad amongst many people, that, being paid by the day, the members of that House protracted their session to an unreasonable length.

Mr. GILES thought there ought to be no pecuniary inducement to members to push forward business in too rapid a manner, or to shorten their sessions. An annual salary would doubtless have this effect, and business, in consequence, would most certainly be neglected. It would be an evil of the greatest importance; it would be a constant temptation to members to neglect their duty; it would tend to embarrass all their deliberations. Indeed, it was a perfectly new mode of requiring Representatives, and would be supposed to be introduced for the purpose of advancing their pay—an idea which he did not wish to prevail, as he thought the present allowance sufficient. He therefore hoped the principle would not be agreed to.

Mr. SWANWICK was against the bill, and said, that to pay members in the way proposed would be to offer them a bounty to neglect the business of the Legislature.

Mr. HILLHOUSE was in favor of the bill. He said, that the Constitution had provided that Congress should meet once a year, and that more time was spent during their sitting than was taken up by the Circuits of the Judges. Yet the Judges had a salary allowed them, and it was not found to have any bad effect. Complaints are now made out of doors that their sessions are protracted for the sake of the daily allowance paid to them. Persons who said this, said he, do not know that we are all the time deeply engaged in business, which is much lengthened by clashing interests of different States. A yearly salary would do away this idea, without making any real difference in the amount paid by the Treasury for their services. If he thought the mode of payment would cause members to neglect their duty, as has been observed, he too would be against the adoption of it; but surely it cannot be supposed that members

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would not sit as long as business should require them. He observed, they had now been in session two months, and but very little important business had been done. He thought the mode proposed would tend to remedy this evil; it was an experiment at least worth trying.

Mr. FINDLEY did not object to the bill merely as a novelty, but because it offered no advantage. Many persons, no doubt, would think one thousand dollars a year too much; but he believed it best for members to do their duty, without regarding the misapprehensions and prejudices of they know not whom. He did not think the pay of members influenced their sittings. The greatest difficulty, towards the close of the session, was to keep members together. If, indeed, members would attend better at the beginning of a session, and take up less time in speaking, sessions might be shorter; but there must, however, be full liberty given to every member to express his sentiments in his own way. No law can regulate people's conceptions. He thought it best that the members should be paid by the day. He should never boast of passing laws in a short time, but of passing good laws.

Mr. NICHOLAS was in favor of the present mode of compensating members, as the period of their session was uncertain, and wherever salaries were paid, they were for certain business. Give members one thousand dollars, and he did not doubt but some of them would wish to return home sooner than if they had been paid in proportion to the time spent in business. Water, though insensibly, wears away stones; and such an influence, he feared, would have a tendency to undermine the integrity of members. It was better to be slow than too hasty in business. He hoped this bill would not pass as an experiment, for the effect must be corruption; and when once this enemy of all Governments is suffered to take root, it is difficult to eradicate it. Indeed, this bill would be supposed by many as a cover to advance the pay of members. If there were any such view, he wished members to propose the measure openly. He thought the present pay too much, and if the people thought it influenced the length of their sittings, they were of the same opinion.

Mr. WILLIAMS was against the bill, though he believed it to be brought in, by the Committee from the best of motives. It was their opinion it would shorten the sessions, and, if carried into effect, it might do so. If our wages were lowered, the measure would shorten our sessions. Every penny beyond expenses is too much: a medium salary was desirable. If the pay of members was increased, officers of Government will do the same. At present, it was true, all the necessaries of life were at a high price; but when the war in Europe ceases, the case will be different. Whenever we adjourn our sessions, (said he,) much business is necessarily left unfinished; and if members were paid by the year instead of by the day, all those whose business was not completed would be ready to say that members were hastened away to enjoy their salary at home.

Mr. SEDGWICK did not think the business before the House important. He was inclined, however,

to favor the bill, not that he would grant a larger amount in that way than the amount of the present allowance per day. The argument of novelty, he said, would not apply; we are in the business of experiment. He would observe a fact well known, that every member in the House was deprived of the opportunity of pursuing his occupations at home, and of the emoluments arising therefrom, by his attendance to public business. He did not believe a yearly allowance would shorten the sessions, but it would remove the charge brought against members of protracting the sessions for the sake of their pay. Whether it is necessary to increase or diminish the present pay is not the question.

Mr. LIVINGSTON expected stronger motives for the bill than he had heard. It is acknowledged a perfect novelty. This, though by no means decisive, is an objection against the measure, and there is nothing else to recommend it. It has, indeed, been said, it will shorten our sessions; but would this be a benefit? If to continue in session be an evil, why are we here? If it could have been proved that expense would have been saved by the measure, that would have been a real advantage; but this has not been hinted at. It has, indeed, been said, it will remove from our constituents a suspicion that we are living here too long. It has been said, that an idea has gone abroad that we receive six dollars a day through the year. Few, he believed, were so ill informed; but this bill, if passed, will cause much more discontent than the present pay occasions. Deliberation in a Legislative body is necessary. The dearest interests of the people, he said, were committed to their charge, and he trusted they would watch over them, and never suffer them to be injured; and then, it was his opinion, their constituents would not think much of their pay.

Mr. BALDWIN said, that it was a disagreeable business to be employed in discussing the subject of paying themselves for their services; it would be a desirable thing to supersede the necessity of doing so. The Committee doubtless thought one thousand per annum would be an improvement upon the present mode of paying members, but he could not think so. He thought it best that the allowance should be paid in the old way.

Mr. GILBERT was willing to try the experiment of the bill proposed. He did not believe that either the present daily allowance lengthened, or that an annual salary would shorten, the sessions. He thought to say the contrary was a base insinuation.

Mr. BOURNE never heard it was the wish of their constituents that their payment should be annual instead of per day. He had heard it complained that their pay was too high; but now, since the price of living is so much advanced, he believed the people were satisfied. He saw no advantages from the proposed change. It cannot be thought that the pay is an inducement to members to prolong their sessions: he had not heard such a complaint. He was in favor of striking out the word "annually," and for recommitting the bill.

Mr. MADISON observed, that the present bill pro-

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posed no alteration with respect to the amount of money to be drawn from the Treasury, and it can make but little difference to members. What had been mentioned as the advantages of this bill, in his opinion, would operate against it. A novelty, he said, always called for hesitation.

Mr. SWANWICK thought, if they enacted good laws—laws that should encourage agriculture and commerce—their constituents would not trouble themselves about their salary.

Mr. GILES rose to remark upon an expression which fell from Mr. GILBERT, viz., that, to say members were likely to be influenced by the proposed salary, was a vile insinuation. He declared that it was a recommendation of the bill in the committee, that it would tend to shorten their sessions.

Mr. GILBERT explained, and justified the expression.

The motion for striking out the word “annually” was called for, and passed.

The Committee rose, and asked leave to sit again, which being granted, the House resumed itself; and the motion being put by the SPEAKER for leave that the Committee sit again, it was negatived; and the bill was recommitted.

And the House adjourned.

TUESDAY, February 9.

FISHER AMES, of Massachusetts, appeared, was qualified, and took his seat.

The bill for allowing a certain compensation per day to members of both Houses, was read a first and second time, and ordered to be referred to a Committee of the whole to-morrow.

THE DOMESTIC DEBT.

It was then moved that the House take up the bill for further extending the term of receiving on Loan the Debt of the United States; which being agreed to,

Mr. SWIFT moved a clause to be added to the bill to the following effect:

“That it shall be lawful for the officers of the Treasury to receive on Loan Continental bills.”

He observed, that he moved this clause because the officers of the Treasury had, for some time past, refused to receive Continental bills, as usual, and it was necessary to have the matter regulated by an act of Congress. Different constructions had been put upon the laws regulating the payment of these bills; he thought they ought to be received as usual; for though the act of limitation be supposed to have barred the payment of them, an act passed since must extend it. He was not disposed to repeal the statute of limitation: but, with respect to Continental money, there can be no fraud or deception, and there was certainly justice in the claim.

Mr. GOODHUE noticed that it had been observed that the officers of the Treasury had put a wrong construction upon the law regulating the funding of the Public Debt; but he thought differently. He thought they acted right in refusing to receive Continental bills. None of them, he observed,

had been received for the two last years. No one could say which was just, or the contrary: There were many counterfeits, and many of them had been bought up for a mere trifle.

Mr. MACON said these bills should have been funded sooner. There were immense counterfeits, he observed, and if there were one case more than another in which the act of limitation ought not to be repealed, it was this.

Mr. HILLHOUSE said, that all that part of Continental money which was not barred by the statute of limitation, was now received at the Treasury. Much of it was now in the Auditor's office, which would be received without objection. But if any one wished old Continental money, which had long been considered as dead, to be received on loan, a bill should be brought in for repealing a part of the limitation law.

Mr. GALLATIN was in favor of the clause. The act of limitation was not sufficiently clear with respect to Continental money, to be understood by the holders of it. The officers of the Treasury themselves, it seems, mistook the meaning of the law, and therefore others less versed in matters of this sort, might be supposed to do the same. The construction put upon the act, though true, was forced, and there ought to be a chance given to those who were mistaken. The reason the holders of this money did not fund it, when the funding system was adopted, might be owing to the unfairness of preference to different kinds of securities. He allowed there might be danger from counterfeits, but that these might be avoided by the customary means. He wished always to act for the public, as in a case of his own; and if the present case was his own, he should be for allowing the claims.

Mr. SEDGWICK remembered that when the funding law passed, that the value of the certificates was very low, which was the reason, he concluded, many were not funded. The speculators, no doubt, had taken care to fund what bills they had in time; and what bills remained, he believed to be in the hands of real holders. If these claims had been barred by law, he should be opposed to opening a door for their admission; but if not, he should wish to declare that they will now be permitted to fund. The funding law explained the various species of debt which were to be funded; afterwards came the act of limitation; then an act to authorize a re loan. If this act authorized officers of the Treasury to receive Continental bills, they should have done so. If the construction put upon the law by the officers of the Treasury, be wrong, a declaration should be made by that House to set them right. There are doubtless counterfeit bills, but he believed the persons who had heretofore been employed to detect these, were yet to be found. He had always thought the House went too far in depreciating, by an act of the Legislature, this species of money, and wished the House to be explicit whether it would be received or not.

Mr. SWANWICK remarked, that the situation of the House was one of the most curious they had yet been placed in. After a lapse of nearly twenty

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years from the emission of Continental money, they were called upon now to say whether it should be admitted to subscription as part of the Domestic Debt of the United States? Every body would pause at such a moment, and think a while on wars; on Government; on paper credit: subject to such revolutions; such strange incidents of time: Who, in 1776, could have predicted such a debate within these walls in 1796? But, since it has happened, let us inquire a little into the merits of this question.

A gentleman [my colleague, from Pennsylvania,] has remarked, that he draws, in point of debt, the line for the public as he would for himself. The general principle is doubtless a correct one; but there are exceptions. The public, with respect to money matters, is placed in the situation of the widow or the orphan. Frauds may be practised that it cannot guard against: hence the necessity of statutes of limitation. One hath been accordingly passed on this very subject, supposed to include the Continental money. The Treasury Department hath understood it so; the late Attorney General (Mr. Bradford) hath so interpreted it; but it is said, after all, to be doubtful: and so we, in order to clear away the doubt, are to pass a new clause to settle the doubt. Were there no tribunals, no Judiciary competent to settle the construction, it certainly is a delicate thing for us to unsettle the practice and opinion that hath prevailed. The statute of limitation is a delicate ark to touch. We have had before us many of our suffering officers and soldiers, brothers at least with the Continental money, in effecting our freedom; but these we have transmitted to the Committee of Claims, who usually report only that their claims are barred. Why not send the money to the same committee we send the Army to? What is there in the form or substance of these bills that entitles them to more respect? It is said they remain in the hands of the original holders, and have not passed into those of the speculators. Alas, sir! the wounds of our soldiers may at least be identified as much as the possessors of this money can be. If the law be positive as to one, shall it be doubtful as to the other? In the money, we are said to be in danger of counterfeits; but it is said some clerks are still alive who can vouch for the authenticity—what good fortune that time hath spared them! Suppose they had fallen with the numerous victims of the war, what would have become of this claim? In short, I am for supporting the Funding System and statutes of limitation as they are, without innovation—without alteration. This paper money hath passed away like that of the States before the Revolution; and since, as a kind of indirect tax, it hath fallen into a silent oblivion; let us not resuscitate it; let us not disturb its ashes. I am against the clause.

Mr. MADISON said it was the intention of the Legislature to apply the act of limitation to Continental money, as well as to other claims; and if it was to be admitted, other claims must be allowed. If a review of the act of limitation be proper, he would not wish to blend it with other business.

Mr. SWIFT acknowledged that it was his object to comprehend Continental money, which was in the hands of individuals; he made no reference to what was already in the Treasury. He wished to have the clause he proposed in the present act to prevent future misunderstanding; though he thought there could be no doubt of the meaning of former acts; indeed the officers of the Treasury construed them in favor of the bills in question for seven months. We had nothing to do with the consideration whether speculators or others had the bills; he thought they ought to be received.

Mr. BALDWIN touched upon the nature of the general and definite construction, and the manner of applying these to laws. He observed the quantity of counterfeits of the kind of paper in question was notorious. It was well known that during the war mills were employed to manufacture it; and upon that ground, he supposed it was excluded.

Mr. GILES was against a declaratory law, and against the clause brought into the House so suddenly. He thought the officers of the Treasury were right in their opinion; indeed it was confirmed by that of the Attorney General, whom they had consulted upon the occasion. He wished to disconnect this clause from the present bill, and to move that it be referred to a Committee of the Whole House. If the statute of limitation can be justified any where, it is where it prevents abuses; and none could be subject to more than the admission of these bills. It would be impossible to detect counterfeits.

Mr. WILLIAMS said, that it appeared, from members on both sides of the present question, that the acts alluded to are so complicated as not to be clearly understood, which shows the necessity of making laws as plain and simple as possible. As some of these bills had been received since the passing of the act of limitation, he thought others ought to have the same privilege. He wished the clause, therefore, to receive farther discussion.

The question whether the clause proposed be added, being put, it was negatived. It was then moved and carried, that the bill be engrossed for a third reading to-morrow.

THE PUBLIC DEBT.

The order of the day was called for on the report of the Committee of Ways and Means, to whom it was referred, "Whether further measures are necessary to reinforce the existing provisions for the Public Debt."

The House accordingly formed itself into a Committee of the Whole; and, after some remarks from Mr. W. SMITH, Mr. COIT, Mr. GALLATIN, Mr. SWANWICK, and Mr. HILLHOUSE, respecting a small variation in interest, to prevent the introduction of too many fractions, the business being allowed to be somewhat complex, it was moved that the Committee rise and ask leave to sit again.

This was agreed to, and soon after which the House adjourned.

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Refunding Duties.

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WEDNESDAY, February 10.

It being near 12 o'clock, and the SPEAKER having waited a considerable time for a quorum of the House, an order was made by the House that the members absent should be sent for, and the Sergeant-at-Arms was accordingly commissioned to summon the absentees. A quorum being at length obtained, the House proceeded to business.

The bill for further extending the time for receiving on loan the Domestic Debt of the United States, was read a third time and passed.

REFUNDING DUTIES.

The order of the day was called for on the report of the Committee of Commerce and Manufactures on the petitions of Jose Roiz Silva, Nehemiah Somes, James Strange, Israel Loring, & Co. And the report of the committee on the first petition being read, a number of observations were made by many members, for and against receiving this report, which was in favor of the petitioner, who prayed for the return of \$2,521 60, which he over-paid in duty upon 197 pipes and 7 quarter casks of wine from the Island of Graciosa. The way in which he was stated to have done this was, no invoice arrived with his wine; and the Collector of the District charged the wine at 20 cents per gallon, as wine of a superior quality, and Mr. Silva having given bond for the securing of the duty, on condition of its being duly regulated when the invoice was received. When it did arrive, it appeared that the wine was of very inferior quality, and should have been charged only with a duty of 40 per cent. ad valorem; but the Collector had transmitted his accounts to the Treasury of the United States, and, though he acknowledged the duty to be overrated, yet the account must be discharged, and he must look for relief from Congress.

The business having considerably occupied the time of the House, the SPEAKER observed it was become necessary to recommit the bill for the sake of order; for several members had spoken twice and others three times upon the question of receiving the report, some of whom had not spoken at all when the subject was before a Committee of the Whole.

Several members said, that, as all the circumstances of the case were before the House, there was no necessity for a recommitment. Others spoke in favor of it; and, the motion being put for a recommitment, it was agreed to.

The House having resolved itself into a Committee of the Whole, several certificates being then read to prove the inferior quality of the wine, one of which asserted it was no better than cider—

Mr. DEARBORN observed, that though Government ought to treat merchants with lenity and candor, yet that House ought to be cautious of opening a door to merchants, who might be inclined to be dishonest, to take advantages of the officers of the revenue. He should be freely disposed to grant relief to the petitioner if he was certain that in case it was not granted he would be the only sufferer. But he was not certain whether

the wine had not been disposed of conditionally, with respect to the duty to which it was liable.

Mr. CLAIBORNE said, it was true that their door was open to petitions, but they were seldom granted. It plainly appears that this man has paid upwards of \$2,500 for duty more than he ought to have paid. The transaction appears free from fraud, and, therefore, he ought to have the money refunded. We ought either to do justice to petitioners, or shut our doors against them. To trifle with petitioners was an amusement he was tired of. The equity of Congress ought to give relief in all cases where it can be done with propriety. As much time was spent in discussing the merits of petitions as would satisfy many of the claims.

Mr. SAMUEL SMITH thought this one of those cases upon which there could be no doubt. He stated it to be the practice of merchants to give bond for duties in the way Mr. Silva had done. The transaction throughout was perfectly fair. Upon what principle, then, can Congress refuse to do justice to this merchant? It has no plea but one. We have given (said he) so many leaves to withdraw, that we are unwilling to allow a prayer to be granted. No door is open to fraud by this act. Merchants do not expect to be treated with rigor by Government; they expect Government will rather show lenity towards them. The Collector at New York, he said, would have returned the over-paid duty, but it was not in his power. He himself had had two similar cases to this, only that his invoices arrived in time; but, if they had not, he should have thought it hard not to have had his petition to Congress for relief granted.

A member had supposed the wine might have been sold as paying 20 cents duty; but merchants must sell upon the same terms as their neighbors. Besides, Mr. Silva never thought of paying 20 cents per gallon for it, but always calculated upon the ad valorem duty. It was one of those claims we ought by all means to allow. We ought to keep friends with the merchants, for they are the collectors of duties for the United States. At present they do all they can for Government; but if they were to be set against it by ill treatment, it would be in their power to be of considerable injury to the revenue.

Mr. GILBERT saw no reason why the petitioner should not be relieved. He wished officers would confine themselves within the law.

Mr. BOURNE said, it appeared to him that the Collector did very wrong in stating the wine as Fayal wine, which seems to have been of so inferior a quality. He was not authorized to do this. A value should have been put upon it. It does not appear that the importer consented to this duty. Indeed, the Collector himself allows the justice of his claim. It would be unreasonable, indeed, that the petitioner should suffer for the irregularity of the Collector.

Mr. WILLIAMS could not hear the officer blamed in this business without justifying him—he did not believe him blameable. He doubted not that the merchant had consented to have the wine

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Post Roads from Maine to Georgia.

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charged 20 cents per gallon, rather than give it up into the hands of the Collector until the invoice arrived. Certificates are brought to prove that 37 out of 197 pipes of wine were of inferior quality. But how is it clear that this is the wine he imported? Why not bring a certificate of more than 37 pipes? The wine never having been in the hands of the Collector, he could not know the quality. Eleven months had elapsed before the invoice arrived. It was possible for this to have been a second invoice, charged on lower terms than the wine was really purchased at. It has been said we ought to be cautious not to offend merchants. He allowed merchants to be serviceable to Government, but Government was also favorable to them in allowing them considerable credits. He wished not to be thought inimical to merchants; he wished only to prevent abuses.

MR. ISRAEL SMITH was of opinion that these were facts sufficient to show that the merchant was in no way to blame. If there was any culpability, it must attach to the officer and not to him. He should be sorry if the House did not feel inclined to grant relief to real sufferers.

MR. PARKER observed, so much had already been said upon the subject, that he felt reluctant to rise; but he wished to do away some objections which had been stated to this claim. It had been said that certificates had only mentioned 37 casks as being of inferior quality. He caused to be read a certificate from the Inspectors at New York, declaring that the wine imported in the vessel alluded to was no better than cider. It has been hinted that there might have been a collusion in the business. He did not think so. Relief ought to be granted. We should be more parsimonious than wise to reject this claim. Merchants, it was well known, always paid their duties with honor, and no advantage should be taken of them.

MR. GOODHUE, of the committee, rose to answer a question put to him by a member. He went through the practice of the custom-house upon these occasions, and justified the regularity of the whole proceedings.

The report was put to the vote, agreed to, and the Committee rose.

The House being resumed, agreed to the report of the committee.

The report of the committee on the petition of James Strange and Nehemiah Somes, for the remission of duties on a quantity of salt lost at sea and by fire, was read and agreed to. The petition was not granted.

The committee's report upon the petition of Israel Loring was next read, which called forth a number of observations from different members. He is stated to have imported a quantity of indigo from New Orleans, in July, 1794, on which the duties were secured according to law, and that in August following he re-shipped the said indigo for Amsterdam, under the inspection of one of the port officers, and his return was duly made to the Custom-house; and that in the transaction of this business every requisite was complied with except that of giving bond and taking the oath

prescribed by law, that the indigo should not be re-landed in the United States; that the omission was in consequence of the great number of persons who were in the office at the time he went to give bond and take the oath, and the hurry of business he was then engaged in, and also conceiving that it might be done as well at any other time; by means of which omission the drawback on the exportation is not allowed, notwithstanding he has all the necessary proofs to show that the said indigo was *bona fide* landed and sold at Amsterdam. He, therefore, prays for the interposition of Congress, and that the drawback on the said indigo may be allowed.

The report of the committee was in favor of the petitioner; but several objections were urged against agreeing to it; the principal of which were that the law was positively against the claim, and that there was a possibility he intended to re-land the indigo in this country. In the course of the debate upon this claim considerable illustration was thrown upon the nature of bounties and drawbacks.

The report of the committee was finally agreed to; and then the House adjourned.

THURSDAY, February 11.

POST ROADS FROM MAINE TO GEORGIA.

MR. MADISON moved that the resolution laid upon the table some days ago be taken up, relative to the survey of the post roads between the Province of Maine and Georgia; which, being read, he observed that two good effects would arise from carrying this resolution into effect; the shortest route from one place to another would be determined upon, and persons, having a certainty of the stability of the roads, would not hesitate to make improvements upon them.

MR. BALDWIN was glad to see this business brought forward; the sooner it could be carried into effect the better. In many parts of the country, he said, there were no improved roads, nothing better than the original Indian track. Bridges and other improvements are always made with reluctance whilst roads remain in this state, because it is known as the country increases in population and wealth, better and shorter roads will be made. All expense of this sort, indeed, is lost. It was properly the business of the General Government, he said, to undertake the improvement of the roads, for the different States are incompetent to the business, their different designs clashing with each other. It is enough for them to make good roads to the different seaports; the cross roads should be left to the government of the whole. The expense, he thought, would not be very great. Let a Surveyor point out the shortest and best track, and the money will soon be raised. There was nothing in this country, he said, of which we ought to be more ashamed than our public roads.

MR. BOURNE thought very valuable effects would arise from the carrying of this resolution into effect. The present roads may be much shortened. The Eastern States had made great improvements

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in their roads, and he trusted the best effects would arise from having regular mails from one end of the Union to the other.

Mr. WILLIAMS did not think it right for the revenues of the Post Office to be applied to this end. He acknowledged the propriety of extending the post roads to every part of the Union; he thought the House had better wait for the report of the committee to which business relative to the Post Office had been referred, which was preparing to be laid before the House.

Mr. MADISON explained the nature and object of the resolution. He said it was the commencement of an extensive work. He wished not to extend it at present. The expense of the survey would be great. The Post Office, he believed, would have no objection to the intended regulation.

After some observations from Mr. THATCHER, on the obtaining of the shortest distance from one place to another, and the comparing old with new roads, so as to come at the shortest and best, the resolution was agreed to, as follows:

Resolved, That a committee be appointed to report a bill authorizing the PRESIDENT OF THE UNITED STATES to cause to be examined, and, where necessary, to be surveyed, the general route most proper for the transportation of the mail between —, in Maine, and —, in the State of Georgia, and to cause to be laid before Congress the result of such examination and survey, with an estimate of the expense of rendering such route fit, in all its parts, to be the established route of the post; the expense of such examination and survey to be defrayed out of the surplus revenues of the Post Office.

Ordered, That Mr. MADISON, Mr. THATCHER, Mr. BALDWIN, Mr. HENDERSON, and Mr. SHERBURNE, be appointed a committee pursuant to the said resolution.

INVALID SHIPS' REGISTERS.

The report of the Committee of Commerce and Manufactures on the petitions of sundry merchants of Philadelphia and New York, whose registers of ships had become invalid, in consequence of all the owners not having taken the oath required by the act concerning the registering of vessels, and transmitted the same within ninety days to the Collector, by which means their ships and cargoes are subject to the same duties as though their ships were foreign; stating that such omissions were, in some cases, unavoidable, from the absence of some of the owners, in others from ignorance of any such requisite, but in none from wilful negligence: they pray, therefore, relief from the very heavy extra duty. The report of the committee is in favor of the petitioners; which, being read, was agreed to; and this report, with those on the cases of Israel Loring and Jose Roiz Silva, were referred back to the committee to bring in the proper bills.

CASE OF CONTESTED ELECTION.

Mr. SWIFT moved that the House take up the report of the Committee of Elections on the pe-

tition of MATTHEW LYON against an undue return of ISRAEL SMITH, a member of that House. The report being read, which was against the petitioner and in favor of the sitting member, a very long debate ensued.

Mr. W. SMITH objected to the form of the committee's report, and moved that it be recommitted. It appeared, he said, that depositions which had been transmitted by the petitioner had not been received as evidence. These depositions proved that the Sheriff had omitted to notify the time of election to the two towns of Hancock and Kingston, which contained fifty votes. This evidence being *ex parte*, and not admissible, the committee, finding that at a former election fifteen votes only came from these two places, and the sitting member having a majority of twenty-one votes in his favor, determined to set aside the petition, and declare Mr. SMITH entitled to his seat. But he was of opinion that the committee had not sufficiently gone into the merits of the case. He said there appeared to have been an enmity between Mr. LYON and the Sheriff, which had led him to neglect the notification of the election to the two towns above mentioned, in order to secure a return to his friend; and that this being the case, further evidence ought to be had, and the business fairly investigated.

Mr. ISRAEL SMITH supposed it would be expected he should say something on a subject in which he was so materially concerned. He thought the committee had done all they could in the business; and if Mr. LYON did not think proper, or had it not in his power to come forward with evidence which could be received, he did not think it the business of that House to hunt after it. Indeed, the petitioner had expressed his desire that the House should determine the case upon the evidence which he had given in. If all the circumstances of the case were before the House, no hesitation would be made to declare in his favor. The towns in question, he observed, were of little consequence; that they were unorganized places, and, therefore, excluded by the election laws of Vermont. He detailed, at considerable length, circumstances relative to the nature of carrying on elections in Vermont, and assured the House that he did not believe the petitioner had any expectations of gaining a seat in the House at present, but that he took these measures only to influence the people in his favor at the next election, for which purpose he had industriously circulated copies of his memorial. Mr. SMITH spoke at considerable length, and, in the course of his speech, touched upon the nature of personal and political rights. He concluded with hoping the House would not admit of any further delay in the business, but come to a decision.

Mr. BUCK was opposed to a recommitment. It was not the business of the House to search after evidence. It does not appear that there were votes sufficient in the towns of Hancock and Kingston to have turned the scale of the election, had they all voted in favor of the petitioner. And who, said he, can pretend to say how these men would have voted? They themselves cannot tell

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how they might have been induced to have voted then; and, therefore, no testimony can be obtained on this subject. Shall the election, then, be considered void, because there has been a defect in it? It appears by the law of Vermont that officers are to give notice to the people to meet to vote for members. In giving this notice it appears that two towns were omitted. The law does not say how the notices shall be distributed. In this case the Sheriff distributed them. All the towns which had notice met and voted, and Mr. SMITH was duly elected. Has Mr. LYON any better right to say the people who did not attend would have voted for him than Mr. SMITH? But though the writs did not reach these towns, they might have given their votes. But, the truth is, these persons do not complain, they are satisfied with the election. It is Mr. LYON only who complains; and, not having brought forward sufficient evidence, he saw no reason for going further into the business.

Mr. W. SMITH took a view of the circumstances at length which had influenced the committee in their determination. He denied that the inhabitants of Hancock and Kingston knew the time of the second election; the time of the first was appointed by law, but of the period of the second they were ignorant, owing to the neglect of the Sheriff. Yet this, it was said, ought not to set aside the election. If this doctrine be admitted, said he, officers may omit giving notice to any town they please with impunity. He could not agree to the propriety of this principle, which cuts up by the roots the right of election. Mr. S. gave some account of the manner in which elections were managed in the quarter from which he came; and then insisted that if two towns might be omitted to exercise the right of election, four, six, or any other number might also be overlooked. If, he added, the fact were as the committee conceived it, that there were not so many votes in the two towns omitted to be notified, as might have given a majority in favor of Mr. LYON, then he should willingly agree to their report; but the fact appearing doubtful, he wished it to be recommitted, in order to ascertain the number of freemen in these two towns.

Mr. SWANWICK observed, that, if notification was essential to the legality of the election, no number of electors in the two towns would influence the election. It had been stated, he observed, by the member from Vermont, that there was a great extent of towns, and that it would be almost impossible that all of them should receive due notice. Two towns are said not to have voted. We are told these towns should have voted so and so; but no one can ascertain this. In a former election they threw in fifteen votes; in the present, it is said, they would have come forward with fifty. This is no evidence of what would have been the case—it is more fair to suppose there would have been no more than fifteen. The danger of Sheriffs being suffered to neglect giving proper notice to electors, from improper motives, has been mentioned. He saw nothing alarming in it. For what purpose, said he, shall

we recommit this matter? It is said we may hunt up facts. Mr. LYON called upon us to do justice; he ought to have substantiated his evidence. Why has he not done this? But, because he has not done it, shall we do it for him? Shall we, instead of having our Sergeant-at-Arms attending upon us here, dispatch him to all parts of the Union? To effect this new business a balloon would be necessary to convey the messenger. He hoped the time of the House would be employed more profitably for the public than to pursue this affair. The burden of proof ought certainly to lie upon those who dispute the election. The petitioner expected it; but we say, No, we will have evidence. He thought this was wrong. We are judges in this manner, and not parties.

Mr. NATHANIEL SMITH wondered the sitting member should oppose the recommitment of this subject. He is in possession of his seat, and not remaining here upon expense. He saw no mischief which could result from delay. It has been said the petitioner can expect no more than a fair hearing. But all his testimony has been excluded. Shall we then refuse to give him a further opportunity of producing testimony that will be received? It is said the testimony he brings is immaterial. But let it be brought before the House, and then the House will be able to decide upon it. He thought the number of votes in the two towns not notified material. The omission of a single town is important when the state of an election is pretty evenly contested. If there be near fifty votes in these towns, they might have turned the scale of the election. It has been said we should be volunteers in this business; he thought not. The petitioner's testimony is excluded, unknown to him, and he should have time to produce other evidence. A contrary conduct would be unfair.

Mr. WILLIAM LYMAN was against a recommitment of this report. Mr. SMITH, he said, was entitled to hold his seat until proof was brought to supplant him. Mr. LYON states that the rights of the electors of Vermont are violated; but his petition is accompanied with evidence which is not admissible, and yet he has desired the House to determine decidedly upon it. This, it has been hinted, is not intended to set aside Mr. SMITH's seat, but for another purpose. Shall the House, then, solicit Mr. LYON to come forward? No. It was his opinion Mr. LYON had abandoned the matter. With respect to the two towns not having received notice of the election, no one could say where the omission lay. The inhabitants of those towns, it was possible, might have voted, though they had no notice.

Mr. GILBERT was in favor of the recommitment, that all the facts relative to the subject might be brought forward. It had been said that it was extraordinary that they should volunteer themselves to send for evidence into all parts of the Continent; he did not think this was likely to happen. He thought that the petitioner had not had an opportunity of coming forward with the necessary evidence, and whilst this was procuring, the sitting member would suffer no injury.

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Mr. MADISON observed, that it seemed to be supposed that they must either decide for the petitioner or against him. But the House might determine the business in this way, viz: That the evidence before it was not sufficient, and give further time for fresh testimony to be brought in, if the petitioner chose to proceed in his complaint. In acting thus, says he, we shall leave a door open to the petitioner without volunteering ourselves to gain evidence. If the report was recommitted this might be done.

Mr. GILES was surprised to hear the opposite opinions which were held on this subject. If he understood the matter, an election had been held, and that two towns, out of a great number, had not been notified; all the rest voted. He was not surprised that two were omitted to be notified, but that more were not omitted. If all the elections which had been had for the members of that House were examined, it would be found that few of them were so perfect. He was certain that his own was not. It appeared from some members that they were making great inroads into the right of election by a practice of this sort, because it was impossible the persons who did not vote, might have voted for the petitioner. He was of opinion Mr. SMITH was entitled to his seat. Gentlemen speak of the rights of election being injured; but, as it has already been observed, these people do not complain. He thought it extraordinary that the House should wish to hunt after objections to Mr. SMITH's claim to his seat. This was straining the business of election too far, for they could not be always perfectly regular.

Mr. FINDLEY observed, that every State had its own rules for managing elections. The notice given of elections was never general. It was difficult to make it so. The sheriff advertises, but many persons never see a newspaper. This House, he said, should always be open to complaints, but never invite them. As the petitioner has not chosen to come forward with his evidence in a proper way he should not wish to take any further notice of his petition.

Mr. CORR understood that the petitioner had commissioned a member of that House to inform him of the progress of this business.

Mr. VENABLE said, he had a letter from Mr. LYON, requesting him, if the sitting member changed his ground, to give him notice thereof. The sitting member had said that the two towns omitted to be notified were not organized; the committee, therefore wrote to the Treasury to know whether these towns were organized. The Treasury gave for answer that they were not represented in the State. It has been said that leave has been allowed in other cases to take evidence in any part of the country most convenient to the petitioner; but then the petitioner has come forward in person to make his averments. He thought the committee were justified in making the report they had done.

Mr. W. SMITH again complained that the petitioner had not been informed that his evidence would not be received, and went over nearly the same ground of argument which he had before

urged against receiving the report of the committee.

Mr. GALLATIN was against the recommitment, not that he was perfectly satisfied with the report of the committee. Two reasons were given why a recommitment should take place: the first was because two towns were not notified; the second, because the kind of testimony given by the petitioner is insufficient. He was of opinion that notification was not essential, and that it was not necessary to send information to the petitioner that his evidence was insufficient. The inhabitants of Hancock and Kingston, he said, were not deprived of their right of voting by notification not being given. The law of Vermont fixed the day of election, and therefore notification was a mere matter of form. When the Sheriff neglects to give due notice, he might be prosecuted, it was true, for a breach of his duty; but this was never done. Elections, he said, were never wholly regular. In the last election for PRESIDENT and VICE PRESIDENT of the United States, several places did not give their votes. They were not, he said, to send after petitioners to that House to remind them of what they ought to do; but those petitioners should attend upon their own business. The House can only decide upon the evidence before it. But if gentlemen thought more information on the subject necessary, the proper way was to postpone and not recommit the report.

Mr. G. having sat down, and it being near four o'clock, a call from different parts of the House was made for adjournment. The House therefore adjourned without coming to a resolution on the subject.

FRIDAY, February 12.

A message was received from the Senate, importing that the Senate had read three times and passed, with some amendment, the act for establishing trading houses with the Indian tribes; which was read.

Bills were brought in by the Committee of Commerce and Manufactures, read a first and second time, and ordered to be committed to a Committee of the Whole on Monday, for providing relief to merchants whose registers of ships were become invalid for want of complying with certain requisitions of the law; for granting a return of overpaid duties to Jose Roiz Silva; and to Israel Loring, to recover the drawback duties on certain indigo.

The committee to whom the petition of Nicholas Roosevelt, and others, was referred, reported in its favor, and it was read a first and second time, and committed to a Committee of the Whole for Tuesday.

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The order of the day on recommitting the report of the committee on the election of ISRAEL SMITH, was taken up.

Mr. NICHOLAS said, there was no ground for committing the report, for the committee could not report in any other way than they had done.

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He did not think the election had been altogether properly conducted; but said the House must not refine too much upon the business. The law of Vermont, he observed, showed that if the two towns in question contained more than twenty-one votes, that would not set aside the election. The time of the second election was expressly appointed in the law as well as the first, and these voters certainly knew when it took place. A defect in form, therefore, ought not to affect the legality of the election; if it were, the principle of the election would be confounded. It was not certain but that these voters might have attended at some other place, as no list of the votes was taken. The committee has sat two months on the business, and no evidence is brought forward that can be received; they knew of no public source from whence to learn even the number of the inhabitants in the two towns alluded to, and could gain no information without going to seek for it. It was improper for the committee to open a correspondence with Mr. LYON. To have done so, would have tarnished the honor of that House. It has been said commissions to receive evidence have been given in former cases; but these commissions had been applied for in person. He remarked there was no application from the people themselves who are said not to have voted, but from the man who wishes to have a seat here. He thought the committee had determined properly; for it was not certain that if Mr. LYON was sent after he would trouble himself farther in the matter.

Mr. TRACY observed, due attention ought to be paid to the forming of precedents. In all elective Governments, the importance of keeping them clear of corruption was one of the first considerations. Due attention, he said, was due to the practice of different States. He felt a delicacy with respect to the sitting member, for whom he had a high respect; but the principle of the question before them was every thing. LYON, he said, wrote to the committee, desiring if any farther information was wanting, that he might be informed. No information had been given him. It had been said he had abandoned the business; this did not look like it. He was influenced, he said, in advocating Mr. LYON's cause by no other motive than a wish to defend the rights of election. He might not come forward, it had been said, if he were applied to. True; but he should have an opportunity of doing so if he chose. If the two towns omitted to be notified contain more than twenty-one votes, and it be true that this circumstance ought not to influence the election, then there is no propriety in committing the report. He allowed that in the Vermont law, made specially for this election, the time was fixed, but he insisted that it was essential that the Executive power should give the necessary information.

It has been urged that none of the neglected voters have come forward; but they have sent certificates, which is a conclusive proof that they were not satisfied. Indeed the law was not obeyed in a very essential part, for it is surely essential that every corporation have notice of an election.

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To illustrate the bad effects of corruption in returning officers, he referred to Great Britain, who owed many of the mischiefs in her system to this source. Mr. T. dwelt a considerable time upon the nature and practice of elections in general, and applied them to the case of this contest. He said it certainly could be proved how many freemen there were in the two towns; and this being done it ought to set aside the election. It had been suggested that these men might have voted in other places; but this was not reasonable to suppose, and if it had been done, the practice would have been contrary to law.

Mr. T. next adverted to what had fallen from Mr. SWANWICK on this subject, and wondered that that gentleman, whose own election was contested, should come forward with such zeal in behalf of the sitting member, and endeavored to ridicule what he had said respecting impressing balloons in their service for the purpose of hunting evidence.

Mr. W. SMITH and Mr. SWANWICK rose together; but the latter giving way, Mr. SMITH proceeded to explain some parts of the election law of Vermont, which he alleged had been misstated, from which he read several clauses, and asserted the towns of Hancock and Kingston were incorporated and entitled to vote. He insisted upon the propriety of holding another election; and touched upon most of the grounds which had been gone over by Mr. TRACY and by himself yesterday. He spoke at length, and asserted that no part of the people should be deprived of their right of voting.

Mr. SWANWICK.—On this subject, Mr. SPEAKER, I had not intended to have spoken again: My own mind, and that of the other gentlemen of this House, seems so fully made up upon it, that I should not have again ventured to intrude on their time; but I owe to an honorable member from Connecticut to make him my acknowledgments for his remark on the zeal I have expressed already on two contested elections in this House; that zeal it was, sir, that first impelled me to quit a situation at least as eligible as that of any other member on this floor, to encounter all the abuse and vexation necessarily incident on public life; that same zeal the gentleman shall always witness on my part on every occasion wherein the interests of my country are in question. But the gentleman thinks I should have repressed it, because I had myself a contested election at stake. Sir, this would have been furnishing the finest triumph possible to my adversaries, because it would have been silencing me on these great public questions, and thereby rendering myself unworthy of the honor I have received of representing one of the first cities in the Union on this floor. No, sir, nothing shall prevent me, while I have a seat here, to deliver on any, or on all questions, where it may be my duty to do so, my sentiments in this House. Neither of these contested elections have besides any analogy to that in which I am engaged. In the case of Mr. RICHARDS, what was the objection? why, a motion was made to keep him a day longer out of his seat, in order that opportunity might be given for new matter to come

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against him. Has anything of this kind appeared since? No, sir. Then one of the representatives of this State would have been improperly delayed in taking his place, and this it was my duty to prevent. I have indeed been told, that those who wish to vacate my election, think on that occasion some favorable principles to them were established; if so, I have the merit at least of impartiality in getting them brought forward; but what has Mr. SMITH of Vermont's election to do with mine? there it is alleged two small towns did not receive notice of the election; but is it pretended that Dock ward, or Walnut ward, or any other ward of this city, were not notified of the election in my case? then, where is the analogy? So much, sir, for what respects me. I now proceed to the merit of this particular case.

Here is a petition from Mr. LYON, complaining of the undue election of Mr. SMITH, the sitting member. It has been referred to the Committee of Elections, but your committee have found it unsupported by any but *ex parte* evidence, not deemed by them to be competent. Well, what are we to do? are we to look after new evidence; are we to send our Sergeant-at-Arms into Vermont to solicit testimony to turn out, as it has been called, our own member? At this rate, I have stated he ought to have a balloon to transport his car; for nothing short of this could do it with sufficient celerity; a few disputed elections over the Continent, might employ, at this rate, all the time of Congress, of its committees, and its officers, in seeking and collecting evidence as to the seats of its own members, to the great waste of the public time and public money. Sir, when a petitioner comes here to complain of an undue election, he ought to come with the proof in his hand, not taken *ex parte*, or the petition should be dismissed; because the door is never shut to such applications, when the parties injured come properly prepared to substantiate their claims: much has been said of the rights of the election, and certainly, sir, no rights can be more sacred, or ought to be more respected; but there is also a right in the party elected; he ought not, on frivolous or idle pretences, or without sufficient proof, to be exposed to such law expenses in defending his seat, as his circumstances may disable him from discharging; for, at this rate, the competition for such seats must soon be confined to the opulent only, much to the prejudice of the equal system of our Government.

On the whole, I am against the recommitment of the report, and in favor of declaring Mr. SMITH duly entitled to his seat, because I see no proof to the contrary. I am always ready, however, to attend to any remonstrance that may afterwards come forward from the towns of Hancock or Kingston, or from Mr. LYON, when these shall be supported by substantial evidence taken after giving due and timely notice to the sitting member.

Mr. BUCK said a few words principally to correct a statement which he had made respecting the election law of Vermont.

Mr. HILLHOUSE said the petitioner never had

had it in his power to take the necessary evidence; as there were no regulations in being at present for that purpose. He observed, there was a law wanted to regulate this subject. He might have appeared in person, it is true; but this would have been very expensive, as he might have been kept in Philadelphia all the Winter. Some way ought to be adopted for taking evidence; but he had no thought of despatching the Sergeant-at-Arms for the purpose of hunting it up. The principle was important, and ought to be established. The principle and facts were two things, which he wished to be separated, so that the House might give an unbiassed decision whether official notice was necessary to the legality of elections, or not.

Mr. GALLATIN agreed that it was essential to establish principles, and to secure the rights of electors. They should decide, he said, upon what was important or useful, and what was essential. With respect to two towns not being notified, their votes would have been taken, though they had not official notice; therefore notification is not essential; but it is said, the Governor of Vermont should have given notice, not only of the second election, but of the state of the poll at the first. This information would have been useful, but not essential; notice of the election was essential, but not the Governor's notice. There was sufficient ground to believe the day of election was known at these two towns, as a month had elapsed from the time of casting up the votes of the first election, and the holding of the second. There is no proof, even *ex parte*, to show this was not known. The consequence of this doctrine was, he said, that an officer could do no material harm; but, if a contrary position was taken, an officer might tire out the people by frequent elections, omitting continually to notify some place or other. By adopting the report, of the committee, he thought, they should best secure the rights of election.

Mr. SEDGWICK was persuaded, that if ever the time arrived when, instead of adhering to principles in contested elections, the House favored a sitting member at the expense of principle, the case would be alarming. He had attended to the arguments adduced on both sides of the question, and endeavored to profit by them. He thought them, however, more diffuse than truth required. It was said that the petitioner ought to be dismissed, because there was no evidence; but he said, there was no mode in which he could produce this evidence. If the petition was vexatious, it ought to be dismissed, but if the rights of election be intimately connected with it, the means ought to be provided for discussing the question, in order to prevent the operation of corruption in future. He thought if the arguments were compressed, they could not be mistaken; and for that purpose he took a short view of the whole subject, and concluded by saying that the two towns in question were called insignificant. He said they might go from towns to men, and say that such and such men being insignificant, their rights were not worth attending to. This

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was a doctrine he could not consent to. He spoke of frequent elections, which he disapproved, as tending to create political controversies amongst the people.

Mr. FINDLEY and Mr. GILBERT each said a few words on the same ground as yesterday; and an adjournment being called for, Mr. HILLHOUSE wished the House before it adjourned to take up the inquiry respecting the Treaty with the Indians; but several members seeming to wish an adjournment, the sense of the House was taken, and decided against the adjournment. The inquiry was then read by the SPEAKER, as follows, to wit:

"Can this House proceed to legislate upon the Treaty said to be made by General Wayne, with the Indians Northwest of the river Ohio, upon the information now before the House?"

But Mr. DEARBORN proposing a resolution instead of it, caused considerable debate; but the House at length agreed to the resolution to this effect:

"*Resolved*, That the PRESIDENT OF THE UNITED STATES be requested to cause to be laid before this House the Treaty mentioned in his communications to the Senate and House of Representatives, at the commencement of the session, to have been concluded with certain Indian nations Northwest of the Ohio."

This resolution was agreed to, and a committee of two appointed to carry it into effect.

MONDAY, February 15.

The committee appointed to wait upon the PRESIDENT to request a copy of the Treaty, said to have been concluded with the Indians, reported that he would order it to be laid before the House.

A bill for authorizing the PRESIDENT OF THE UNITED STATES to borrow money for completing the buildings erecting in the Federal City, to sell any part of the same, &c., was read a first and second time, ordered to be printed, and committed to a Committee of the Whole on Wednesday.

It was moved that the Journals of the House be amended, by striking out the question submitted to the House, by the committee to whom it was referred, to bring in a bill respecting Indian affairs, "Whether the House can proceed to legislate on the Treaty said to be concluded by General Wayne with the Indians Northwest of the Ohio?" This motion was objected to, on the ground of no inconvenience arising from its remaining upon the Journals; for as it was postponed for the sake of getting rid of it, no member will ever think of calling it up; if he did, the House will certainly not consent to it.

Mr. MURRAY called up a resolution laid upon the table some days ago, to this effect, "That a committee be appointed to consider whether any and what alteration is necessary in the compensation of the officers of the Government of the United States," which, being put to the vote whether or not it should pass, was negatived; being thirty-seven for it, and forty-two against it.

It was moved, that the amendments made by

the Senate to a bill for establishing trading houses with the Indian tribes, be taken up; which being done, was ordered to be committed to a select committee of three.

CONTESTED ELECTION.

The order of the day being called for upon the report of the committee on the petition of MATTHEW LYON, against ISRAEL SMITH's election,

Mr. GILES said he had made a few remarks on this subject already, in which he gave his opinion against recommitting the report; but many gentlemen, for whose opinion he had the highest respect, having thought differently, and wishing that the subject might be so discussed that a pretty unanimous determination might be had upon it, he had now no objection to a recommitment.

Mr. NICHOLAS thought the committee had reported rightly; but in order to give Mr. LYON opportunity to come forward with evidence, if he chose to do so, he should move that the further consideration of the subject be postponed till the 15th of March.

Mr. WILLIAMS said, if a postponement took place, sufficient reason should be assigned for it. It was said it was to give the petitioner time; but, he observed, it did not appear clear, that if Mr. LYON proved that there were forty or fifty voters in the two towns omitted to be notified, that it would vitiate the election; and if not, it would be only a waste of time and expense to the petitioner, to put off the decision.

Mr. HILLHOUSE was also for a postponement. It was only just, he said, that a day should be appointed on which to hear the petitioner. A distant day; instead of the 15th, he would recommend the 29th of March, when, whether the petitioner chose to appear or not, the matter might be determined. At present, he said, the House only heard one side; further information was wanted. He wished the questions of law and fact might both be settled. For this purpose, he hoped the postponement would be adopted; and if no one brought forward a motion for ascertaining a proper method of taking evidence in the case, he would himself bring in a motion for that purpose.

A letter from Mr. LYON to the SPEAKER was called for and read, when

Mr. RUTHERFORD expressed himself pleased with the candor of the letter. He said he had not yet troubled the House upon this matter. It was a very nice subject. Representation (said he) is the right eye of the people. It appeared that the electors were very nearly balanced in their opinions of Mr. LYON and Mr. SMITH. He thought the House had done their duty in the matter, and that they had had enough of it. It was an old adage, he said, "That too much of a thing was good for nothing." He hoped Mr. SMITH would be allowed to possess his seat.

Mr. HEATH thought a great deal had been said unnecessarily on this occasion. He said much had been urged about the purity of elections. He was a friend to the purity of elections. Let

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Mr. LYON show himself entitled; we ought not to seek for his evidence. His prayer was not supported; and why (said he) do gentlemen manoeuvre for three or four days in this business? He detested all ex-officio hunters of prosecutions. The House was fully possessed of the merits of the case. He did not entirely agree with the form of the report of the committee; but hoped the question would neither be re-committed nor postponed.

Mr. BOURNE was against the postponement, and in favor of a recommitment, that the matter might be fully developed.

Mr. VENABLE [one of the committee] said, the committee would again go into the business if the House desired it, but that they could do no more without further evidence. He was also against a postponement. At the commencement of the session, the House gave the committee power to take evidence in any way they pleased; this gave Mr. LYON as much information as a resolution today would give him. If the House agreed to a postponement, he hoped it would give special instructions for further proceeding in the affair.

Mr. DEARBORN said there were different opinions on this subject; to him there appeared only one proper way of proceeding. When a person petitions against the seat of a member, if there be no agreement to the contrary, he ought to come forward in person. Without this, the House cannot, with propriety, go into the subject. Two or three months were passed, and nothing was done by the petitioner. It is said there is a possibility of there being more evidence. This is nothing to the House. He wished the matter neither to be committed nor postponed.

Mr. ISAAC SMITH wished to watch over the purity of elections, and always to aim at perfection in their Government. No election was ever altogether regular. He did not think the Sheriff was partial to Mr. SMITH, or that there was any corruption in the case. Out of the electors who were said not to have voted, twelve were in favor of Mr. S. at a former election. The people had already been called together twice to make choice of a member; he hoped they would not have to meet a third time. He was for adopting the report.

Mr. NICHOLAS explained his view in making his motion for postponement; he did not think it necessary to issue a commission for taking evidence; it was enough to postpone the subject to give Mr. LYON an opportunity of coming forward if he chose to do so.

Mr. PAGE said there was a material difference between recommitting and taking time to reconsider the subject. It was not their business to tell the petitioner how to come forward; but to give him time. A postponement would give him this time.

Mr. KITTERA observed, the House could not make rules respecting a subject of this kind, until a controversy took place. He mentioned several difficulties which arose in legislating on this subject; but thought they might make regulations on a matter of this sort, without the concur-

rence of the other two branches of the Legislature. This being the case, how will the postponement operate? Will it have the effect to bring forward evidence? No. Rules for taking evidence must first be fixed, and a recommitment would have this effect.

The question being called for, the House divided: for the postponement till the 29th of March, thirty-six; against it, fifty-two.

Mr. GILBERT said he had voted against the postponement; but as evidence had been offered and not admitted, he wished the report to be re-committed, that the petitioner might have an opportunity of properly substantiating it.

Mr. COOPER thought it absolutely necessary, that every town in a district should have notice of an election, and that it was of consequence to establish this principle; for what was the practice to day, would be a precedent to-morrow.

The motion for a recommitment being put, it was negatived—47 being for it, and 49 against it.

This motion being lost, Mr. GILBERT moved, that the sense of the House should be again taken on the postponement, as many members, he was persuaded, voted against the motion when put before, from the expectation of the report being re-committed. The question was, therefore, put and carried—being for it 49, against it 44.

TREATY WITH INDIANS.

A communication was received from the Department of State, with a copy of the Treaty concluded with certain Indians on the Northwest of the Ohio; which, being moved to be referred to the committee appointed to bring in a bill respecting Indian affairs,

Mr. GALLATIN said, he thought it unnecessary to refer the Treaty to the committee. It was enough for them to know that it was on the table. He wished it to be committed to a Committee of the Whole, as it was necessary appropriations should be made for carrying it into effect. He moved, therefore, that the Treaty, and papers accompanying it, be committed to a Committee of the Whole to-morrow. Agreed to.

LAND OFFICE NORTHWEST OF THE OHIO.

Mr. HARPER called for the order of the day on a bill for opening a Land Office, for the sale of lands in the Territory Northwest of the Ohio. The House accordingly formed itself into a Committee of the Whole, Mr. MÜHLENBERG in the Chair.

Mr. VAN ALLEN expressed his opinion that the House might have greatly simplified the business, by having the lands properly surveyed and persons employed to sell them. The expenses of carrying the present bill into effect would be very great. He thought it best that the lands should be sold at public vendue. He moved that the first section be struck out.

Mr. RUTHERFORD said, there never was a bill of greater importance than that before the House. He said that House were the fathers of the country, and that they were about to set out new farms to their sons, by doing which he hoped they should destroy that hydra, speculation, which had

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done the country great harm. Let us, said he, dispose of this land to original settlers, 150,000 families are waiting to become occupiers of this land, (a member called out for his authority, when he said there was more than that number.) The bill before the House, he said, was exceptionable. It would not, he said, defeat the speculators. The monsters in Europe, added he, are ready to join the monsters here, to swallow up the country. He said this tract of country should be disposed of to real settlers, industrious, respectable persons, who are ready to pay a reasonable price for it, and not sold to persons who have no other view than engrossing riches. He had made out a rough plan, he said, of what struck him as proper regulations. He was proceeding to read the whole of them, when the Chairman reminded him that the first section only of the bill was under consideration. He said he was against the whole bill, and might as well then express his sentiments upon it. He said he was a mere child of nature, an inhabitant of the frontier, as untaught as an Indian; but he had some faint glimmerings of reason, and he was confident his plan would answer the desired purpose. After explaining and dwelling some time on the merits of it, he concluded with saying, he loved his country and all honest men, but hated speculators, and hoped the present bill would not pass.

Mr. FINDLEY said, it was a difficult matter to legislate well on a subject of such extent as this bill comprehended. He enumerated several defects in the bill before the House. The duty of superintendents, he said, was not sufficiently explained: there was no responsibility in the surveyor; no salary appointed. By these omissions, a part of Legislative duty is transferred to agents. It becomes the Legislature, said he, to improve the advantages of nature; this bill does not do this. He spoke of the necessity of properly dividing bottoms, water, &c., into the different divisions. He said the size of the tracts was too large. It will be said they may be divided between a number of farmers, who might agree to purchase in company. He showed the inconveniences attending a practice of this sort, and said it was inviting people into a snare, which would cast dishonor upon Government. He thought the imperfections of this bill could only be remedied by a new bill. He wished a plan to be adopted that should divide bottoms, and have more precision in the surveys. Many confusions he said, had arisen in all new settlements, which might have been prevented with care. He said a surveyor had great power, and ought to be responsible. He touched upon the different kinds of surveying, and said, magnetical surveys were not always to be depended upon. Delay is objected to, but it is better, said he, to delay the business for a time, than pass a bad bill.

Mr. DAYTON (the Speaker) observed, that the objections which had fallen from the member just sat down, were of importance, but that this was not the proper time to consider them. He wished to be informed by the member who proposed to strike out the first section of the bill, whether

he meant to substitute another section in its place.

Mr. VAN ALLEN said, he meant to propose a new clause, and objected to the bill generally. He thought the Treasury and State Departments might undertake the business. He objected to the present survey. He said he thought of dividing the land into parcels of six miles square, which might again be subdivided; that exact surveys of the land should be taken, upon which should be marked the qualities of the land, the rivers, springs, &c., with great precision; that these should be published. If this was not done, he said, purchasers in general would not know anything of what they purchase, and the country would be involved in law suits. He was of opinion the present bill would prove a very expensive one; objected to the terms of payment, and the mode of selling the land, and thought the evils of it could only be remedied by a new bill.

Mr. COOPER was nearly of opinion with the last speaker. He said he also had prepared the sketch of a bill.

Mr. NICHOLAS acknowledged, though he was one of the committee, that he was very imperfectly acquainted with the subject. He wished to hear gentlemen make specific propositions, and not to hear of new bills. Many objections might be urged against any bill which might be proposed. He hoped full liberty would be given to members to express their sentiments, which might be proposed as clauses to be added to the bill, and that they might not be confined in their discussions to any particular section. One great object of the committee was to get the highest price for the land, and for this purpose they thought it necessary to make the titles sure. It has been said that the land should be laid out according to water, &c.; he thought this impossible to be done, so as to make titles certain. He trusted many of the objections stated might be remedied without a new bill. He thought the offices alluded to could not do the business, though he thought there were offices under Government that might do it; and hoped every member would speak his sentiments fully upon the subject.

Mr. JEREMIAH SMITH thought it improper to discuss the principle of the bill at present, until they had examined its parts. It was now the time, he said, to propose alterations and amendments. When the bill is matured and reduced to form, then will be the time for discussing the principle. The first section he thought proper for any bill, and he hoped the motion for striking out would be withdrawn.

Mr. PAGE was of opinion the first clause was of the greatest consequence; he hoped it would be open to discussion. He had taken a view of the whole bill, and thought it a bad one, and the sooner they entered upon a discussion of it the better. He thought a better bill might be formed, but wished rather to bring on the discussion than to enter on it himself.

Mr. MURRAY wished the question of policy had first been agitated whether it was necessary to open a Land Office at all. He thought it should

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have been best to have laid off the land in ranges of lots, and when one range was patented and settled, to take another, until the whole was disposed of.

Mr. W. SMITH said the committee did not think it necessary to agitate the question of propriety respecting the establishment of a Land Office; the House having authorized them to bring in a bill for the purpose they thought that sufficient. The committee for preparing a plan for reducing the National Debt, proposed a sale of the Western lands. The question was, whether the present bill was the best that could be formed for the purpose. He believed it liable to objections, as he believed any bill would be that was proposed. The committee, he said, had thought well of this bill. With respect to the motion for striking out the first clause, he thought it now improper, until we know in what manner the lands are to be sold; and when we learn what duties the officers will have to perform, we shall best know who can do them. The second clause, he said, related to the surveying of lands; the third clause is that which has been objected to with respect to the size of tracts. In a former bill it was proposed that the lands should be divided into tracts of six miles square; but the committee thinking these too large, determined upon having them three miles square only. These are yet thought too extensive. He said he wished to hear every objection that could be urged against the bill, and should be open to conviction. The committee had two objects in view—to raise revenue, and to sell the land in such lots as would be most convenient to purchasers. It was once thought of selling the lands by auction; but it was feared to have done so, would have been to open a door to speculators. They determined, therefore, to fix it at the price of two dollars an acre, and to sell no lands at present which would not bring that price, because, hereafter, when settlements are made, inferior land will command the same price. These were their sentiments, but they wished the subject to receive full discussion.

Mr. VAN ALLEN withdrew his motion, and the Committee rose and asked leave to sit again; which was granted.

TUESDAY, February 16.

CONTESTED ELECTION.

Mr. HILLHOUSE said he wished, before the order of the day was gone into, to propose to the consideration of the House a resolution which he yesterday mentioned as his intention of bringing forward, if he was not anticipated by any other member, for regulating the taking of evidence in case of Contested Elections. He read the resolution, which went to make legal all evidence taken before any judge, justice, mayor, &c., in a way therein described, and wished it to be taken into consideration immediately, supposing that no objection would be made to the enacting a regulation so necessary for settling disputed elections.

Mr. BALDWIN said he should be against passing

the proposed resolution immediately. It was a matter of considerable importance. Besides, to pass it now, would seem as if it was intended for an invitation for Mr. LYON to come forward; and he apprehended that most gentlemen who voted for a postponement of that business did not mean to take any further steps in it, except Mr. LYON himself personally solicited it.

Mr. GILES thought the resolution proposed was of serious import. When the question was formerly agitated whether that Assembly could make its own regulations for taking evidence on Contested Elections, it occasioned considerable debate, and the motion was negatived. He was at that time, as he now was, of opinion that the House had the power. But he thought the question ought to be matured, and not passed on a sudden. The regulation should be general, and not fitted for any particular case. He should move that the consideration of the resolution, therefore, be committed to a Committee of the Whole House on a distant day.

Mr. SEDGWICK thought this resolution should be committed to a select committee, which was better calculated for the business than a Committee of the Whole. He was of opinion with the gentleman who spoke last, that the House was competent to make its own regulations with respect to controverted elections. He said the determination upon Mr. LYON's case had been put off till the 29th March. Some way ought to be pointed out in which he might bring forward evidence, or the postponement would be of no service to him. He hoped, therefore, no more time would be taken than necessary to mature the consideration of the measures, that the proposed regulations might apply to the case of Mr. LYON.

Mr. BALDWIN said the resolution should be referred to a Committee of the Whole. He doubted whether Congress could make these regulations go beyond the present session. It had been said no delay should be allowed, as it would prevent Mr. LYON's having the advantage of the regulations. He said he wished the present resolutions to apply to no particular case, but to be general, and then no mischief could arise from delay.

Mr. VARNUM urged the impropriety of making regulations for Mr. LYON's case, when he did not wish them. It was the wish of several members of that House, but not of himself, unless, indeed, he could have a certainty of displacing Mr. SMITH. Mr. LYON very well knew what evidence was necessary; he chose to act differently, and he should abide the consequences. This resolution goes to the admission of *ex parte* evidence. If it was necessary for the House to make a general rule, it was well; but if gentlemen wished only a regulation in favor of Mr. LYON, he hoped they would have the candor to say so.

Mr. HILLHOUSE was indifferent as to what committee the subject was referred. It had been said that Mr. LYON had given up the contest, except invited to renew it. He thought a principle was involved in this consideration, which he wished to be cleared. Mr. LYON, he said, wanted a full and fair investigation, and he ought to have

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it. No evidence, he said, was legal, except taken according to a rule approved by the House. It has before been a question whether we could make these regulations. It required discussion. His motive for bringing forward the motion was, that Mr. LYON might have the means of coming forward; but he had been cautious in wording it, that the House might not appear to be volunteering in the cause of MATTHEW LYON, though he owned he did not himself feel any delicacy upon the subject.

The SPEAKER observed that it was out of order to bring into view the Contested Election business, and was about to put the motion, when

Mr. BUCK informed the House that he had that morning received a letter from Mr. LYON, by which it appeared that he intended to prosecute the business of his memorial, and that though he [Mr. BUCK] was opposed to a recommitment or postponement of the report of the Committee of Elections, yet, as the House had declared in favor of postponement, for the obvious purpose of giving Mr. LYON an opportunity of further investigating facts, he considered it his duty, and the duty of every member, now to endeavor to forward that investigation, by removing out of the way every obstacle to it; and as the proposed resolution then before the House contemplated a provision for taking evidence in all cases of Contested Elections, it was of consequence that it should be adopted as soon as possible, that Mr. LYON might take the advantage designed by it. He further said, that though he really believed that LYON had no serious intention of prosecuting his memorial when he first sent it forward; yet, since he had found that Congress had given it a serious attention, he was persuaded LYON now intended to follow it up.

Mr. HARPER said the time was fixed for finally determining the contest between Mr. SMITH and Mr. LYON; to adopt a distant day, therefore, for the consideration of the proposed regulations, would be to deprive Mr. LYON of the opportunity of substantiating his evidence. He hoped, therefore, a distant day would not be fixed upon, as the regulation was certainly intended to include his case.

Mr. HARPER was proceeding to remark upon different observations which had fallen from members in the course of debate, with respect to the late contest, when the SPEAKER reminded him that if such observations had been made, they were out of order, and any remarks upon them would be equally so.

Mr. JEREMIAH SMITH thought the House should make the necessary regulations, and let Mr. LYON learn them as he could; he would soon be informed, he doubted not, of their determinations. The Committee of Elections, he said, were discharged from the subject. He thought a special regulation should be made for this particular case, and not a general rule.

Mr. GILES regretted whenever a general rule arose out of a particular case; it too often was warped by it. He wished every fact which could be brought in Mr. LYON's case to be heard. If gentlemen would bring forward a particular rule

for taking evidence in this case, it should receive his support. For the discussion of the general principle he wished, and should vote for a distant day to be fixed, as he apprehended much difference of opinion would take place on the occasion.

Mr. GILBERT was for a general rule that would embrace all future cases as well as the present.

Mr. JEREMIAH SMITH rose to inquire if the general regulation was put off to a distant day, whether it would be in order to bring forward a motion to suit the case of Mr. LYON? He was answered by the SPEAKER it would be perfectly in order.

The question was then put for postponing the motion until Monday week, and negatived—being for it 31, against it 50. It was then put for Monday next, and negatived—being for it 39, against it 42. It was then put for Thursday, and carried without a division.

Mr. JEREMIAH SMITH then moved "that the Committee of Elections be instructed to describe the mode of taking evidence in the case of MATTHEW LYON;" which, after several observations from different members, was put to the vote and negatived—being for it 36, against it 43.

NORTHWESTERN LAND OFFICE.

The order of the day being called for on the bill for establishing Land Offices, and the House having formed itself into a Committee of the Whole—

Mr. WILLIAMS said there was a diversity of opinion on the bill before the Committee. It embraced two objects, as had before been observed, to raise money and invite settlers. He did not think this bill was calculated to encourage settlers. They could not become first purchasers, but must have the second or third transfers. It behooved the House, he said, to deliberate well the subject. It had been said, if the land were divided into small parcels, the expense attending the disposal of it would swallow up the price. He trusted, however, a mode would be devised of bringing double the sum into the Treasury that would be raised by the present bill, and, at the same time, encourage settlers. He hoped, therefore, to attempt to effect this would not be deemed a waste of time. The Surveyor General, he said, should be a man of abilities and integrity, and well acquainted with the country. When this officer is appointed, the bill should be so framed as that he should be directed to lay the land out in small lots, by the course of the rivers, pointing out every situation which he thinks likely to be of importance. He thought the best mode of selling would be by auction, and that a longer time should be given for payment. Let the Surveyor General or Superintendent first explore the country, and cause to be surveyed into small lots all the places which, from the locality and situation, would command an immediate settlement, (reserving all salt-springs and places of importance to be hereafter disposed of;) to these small lots let there be lots of larger denominations also laid out, so as to accommodate the purchasers of the small ones—these to be sold together. Then cause to be laid out the next most valuable places, to be run off in squares of ten

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miles, which would make one hundred lots of six hundred and forty acres each. Four lots in the centre of each tract should be reserved for public use. Accurate surveys of these lots should be taken. This plan would enable settlers to be purchasers in the first instance. The land, thus divided, would sell for a higher price, and it would be settled with freeholders. On the contrary, if the present bill be enacted, the land will be engrossed by speculators. The method he recommended, he said, had always been found to answer best in the settlement of a new country.

The plan had been acted on in the State which he had the honor to represent, and land much inferior to this had been sold with ease at two dollars per acre. The expense of disposing of the land in this way, he said, would be somewhat greater, but this would be amply repaid by the price it would command. When the Surveyor had finished the survey of a certain part, persons might be employed to sell it, and so proceed progressively. He should waive any further remarks at present. He thought it necessary to throw out these hints for the use of the Committee, and hoped other gentlemen would deliver their sentiments freely upon the subject.

Mr. FINDLEY, in order to bring the subject more fully before the House, moved a clause to this effect: "that the Superintendent to be employed under this act, shall be well skilled in surveying, and shall be paid — per annum, out of the moneys arising from the sale of the lands, and that he shall form boundary lines to be run between the territory belonging to the State of Connecticut, the lands secured to the Indians by Treaty, and the territory of the United States." These lines, he said, would be necessary to be run before anything be done, that the territory might be ascertained. He wished to have an officer responsible, and to ascertain what his salary should be.

Mr. GREENUP did not see the necessity of employing two Superintendents. If two were employed, why not have a commission in every place? He should propose to strike out two, and put one. He thought, indeed, of moving to strike out the whole of the first clause, and introduce another in its place. He was against the whole of the bill, but particularly the third clause, which proposes lots to be three miles square, so that no payment will be received of less than 5,760 dollars down, and at the end of a year, a like sum must be advanced. The land must, therefore, go into the hands of monopolizers or not be sold at all. Mr. GREENUP said the unappropriated lands in the country were the property of the whole community. In his opinion, districts should be first laid off; when these were sold, more might be offered. If two millions of acres a year could be disposed of, that would be sufficient. There was land, he said, (alluding to the salt-springs,) too valuable to be put into the hands of speculators at two dollars per acre. He objected to the mode of paying the money for the lands, and reprobated the bill in general.

Mr. KITCHELL said, it was necessary to confine remarks to specific parts of the bill, and not to the

whole. The Committee had done the best they could, but would be glad to have their labors improved. Four or five different systems were already offered to the House, to every one of which, perhaps, as many objections might be raised as against the bill under discussion.

Mr. GALLATIN wished to know whether it would be in order to postpone the consideration of the first section of the bill, to take up the second and third: the first section was of no great consequence.

Mr. W. SMITH said, he had before wished this mode to be adopted. He thought it would be best to proceed to the consideration of the second section.

The Chairman having read the second section—Mr. GALLATIN observed, that two remarks had been made which applied to these sections. The proposed mode of surveying, it had been said, would throw out the natural boundaries of the country. The next objection was to the largeness of the tracts. Two amendments which he should propose would bring these two questions before the House; and if the amendments be thought material, the bill will of course be recommitted. His motion would leave the power of the Surveyor more discretionary; that the words "parallel lines, at the distance of six miles from each other," be struck out; that the Surveyor shall put the lands into such lots as may be most convenient, to be bounded by lines due North and East, or by natural boundaries. In this case, the lands must be surveyed before they are sold, and the lines may be run parallel on by rivers.

This motion being put into form, and read by the Chairman—

Mr. DAYTON (the Speaker) wished the amendment to be made more correct with respect to the boundary lines.

Mr. NICHOLAS also objected to the amendment, as not being clearly expressed.

Mr. GALLATIN explained.

Mr. HAVENS said, before he could give his vote on the amendment, he wished to know the size of the lots into which the land was proposed to be divided. He said, the State of New York held out an example for them to follow. No State had had more to do in settlements than it. That State had directed their lands to be laid out in squares by means of ideal lines, and found little embarrassment from this plan. He thought it very necessary to ascertain, first, in how large tracts the land should be parcelled—who is to sell it—to ascertain the powers of officers, and the discretion to be allowed them; and, also, that maps be taken of the land.

Mr. NICHOLAS remarked, that if the country was not square, the lines could not be run in squares; but, he said, there was no necessity for going into arrangements for the sale of every foot of land they had to dispose of. Fractional parts might remain unsold with Government. He took notice of the uncertainty of natural boundaries. He thought a discretion in an officer might be used to greater advantage than they could possibly give directions to him for laying out the lands. No officer, he

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said, could be expected to go into a critical examination of different kinds of soil, situation, and description of water, &c.; nor could it be expected that Government could make the same advantages in disposing of this land as if it were private property. Large capitals, he said, were necessary in a business of this kind. There was great difficulty, he observed, in starting farmers, by any advantages which might be offered, from situations in which they were placed. It might be expected, that at first, large purchases would be made by moneyed men, upon which a profit would be made. But if the land were to be divided into small lots, there would be no encouragement for men of property to come forward: the best land would be bought by farmers, and the rest left. He was fully of opinion, that the first purchaser of the land was not likely to be the cultivator.

The House calling for a rise of the Committee, leave was asked to rise and sit again; which was granted. Adjourned.

WEDNESDAY, February 17.

THE CANADIAN REFUGEES.

It was moved that the report of the committee on the petition of certain Canadian refugees be taken into consideration, for the purpose of committing it to the Committee of Claims.

Mr. LIVINGSTON thought this business ought not to go to the Committee on Claims, as a promise of a grant of lands had been made to these claimants by a former Congress; and therefore it was not the justice of their claim which was to be considered, but whether the promise made them should or should not be fulfilled by the present Congress.

Mr. SEDGWICK said, there was no difference, in his opinion, betwixt a claim for land and a claim for money. All claims, he said, should be referred to the Committee of Claims, and no other.

Mr. LIVINGSTON requested that the reports of a former Congress might be read; which, being done, he insisted upon this case being totally different from ordinary claims. He said, the sufferers whose case was under consideration, were men who had sacrificed much in the service of this country, and that, in consequence of the justice of their claims, a former Congress had positively promised them a recompense of a grant of land; they had therefore only to say whether this should or should not be done. He was desirous that the business should be expedited, as these men had been a long time kept from what they were justly entitled to.

A report of a committee in February, 1793, was called for and read.

Mr. WILLIAMS thought it best for the report to be recommitted, in order to determine what quantity of land should be granted to these persons. He said he was well acquainted with many of these persons, who were very deserving men; many of whom had given up their fortunes to engage in the service of this country. The State which he represented had recompensed many of them, and he trusted the House would not hesitate to carry into effect the promise of a former Congress in their favor.

Mr. GILES said, the report before the House contained sufficient information to proceed upon, which ought to be committed to a Committee of the Whole House. He did not think the business proper to go either to the Committee of Claims or a select committee. If no fresh testimony was likely to be adduced, he should move the report of 1793, as a foundation to act upon. Some compensation, he said, should certainly be made to these sufferers for the sacrifices which they had made of their persons and fortunes; or, if the country should hereafter have need of like sacrifices, with what reason could they expect them to be made?

Mr. GREENUP observed, there was another report in favor of these sufferers made on the 1st April, 1794, which was never acted upon. He thought it best that this business should be referred to some committee to be considered. He said it was time these claims were satisfied. A select committee might soon decide upon their merits. He had other papers in his possession which would throw light upon the subject. He thought the report should be disagreed to, and committed for amendment.

The motion was put for committing the subject to a Committee of the Whole, and carried—45 against 21.

Mr. GREENUP then moved that the report of the 1st April, 1794, on this subject, be referred to the same committee. Agreed to, and made the order of the day for Monday next.

CONTESTED ELECTION.

Mr. LYMAN moved for a reconsideration of the resolution postponing the determination upon the case of MATTHEW LYON's petition against the election of ISRAEL SMITH to the 29th of March. Mr. LYON having announced his intention to proceed in the business, he should wish the report of the committee to be recommitted.

Mr. S. SMITH hoped the House would agree to the report of the committee; and, if in order, he would make a motion to that effect.

Mr. HILLHOUSE said, if the gentleman who spoke last had made up his mind on the subject, he had not, and was not prepared to determine so suddenly on a matter of importance. He thought it improper to put such a resolution, and hoped it would be withdrawn.

Mr. S. SMITH understood that his motion was superseded by the motion for commitment, or he should have wished it to have been put. He said gentlemen repeated, day after day, the same sentiments upon this business, in a tiresome manner, and that it had already occupied too much of the time of the House.

The resolution for postponement was rescinded, and the report of the Committee of Elections was recommitted to the same committee.

NORTHWESTERN LAND OFFICE.

The order of the day being called for, on the bill for opening land offices for the disposal of lands in the Northwestern Territory, the House resolved itself into a Committee of the Whole, and the amendments of the 2d and 3d sections, offered by Mr. GALLATIN, being under consideration—

Mr. FINDLEY observed, that there were different opinions on the subject before them: some were for making complete surveys; some for large and some for small tracts. Surveys, he said, should not destroy natural boundaries; and the fewer parallel lines, the less destruction of this kind. It was not necessary, he said, to say much upon the size of tracts. A gentleman had said, it was necessary to sell the land in large quantities. He was glad to hear members express themselves so clearly. His views were directly opposite: he was for encouraging farmers, and against engrossing. He wished every man to have an opportunity of purchasing fifty or one hundred acres. They ought not only to keep a wholesale but a retail store. It was the interest, he said, of every country to encourage freeholders: they are interested in supporting the laws. This, he added, is not only good for Government, but it tends to make the people happy. Land is the most valuable of all property, said he, and ought to be brought within the reach of the people. He next spoke upon the subject of boundaries, and answered the objections which had been made against taking natural ones. He was for the amendment, and trusted all those who wished to encourage industrious farmers would also vote for it.

Mr. GALLATIN wished to withdraw his motion, in order to introduce one of greater importance. He did not think the present one material to be determined upon at present. He proposed to strike out part of the second section, and to add the following: "to cause one-half of the townships to be subdivided into tracts of, as nearly as may be, — miles square, and the other half to be divided into tracts not exceeding — acres, nor less than —." This, said he, will bring into discussion and to the determination of the committee whether they will agree to the selling of part of the land, at least, in small and convenient farms.

Mr. RUTHERFORD thought the bill altogether improper. If he asked a fine painter to present him a peacock, and he painted him a bat, he should tell him, that though he might be a fine painter, yet he had totally mistaken him. He was proceeding to object to the whole bill, when he was called to order, and concluded by saying he was for the amendment.

Mr. HAVENS did not see the propriety of having large and small tracts: he wished all the land to be in small tracts. Men who have large capitals will have always an advantage over those who have but little property, though the land be in small tracts. He thought a tract of one mile square large enough. He was against the bill altogether, and thought a special committee should be appointed to bring in a bill that would be more likely to answer the desired purpose. He read some propositions which he had prepared on the subject, which recommended the allotting of tracts into six miles square, and subdividing them again into lots of one mile square.

Mr. DAYTON said, there was an impropriety in moving to recommit the bill before it had received discussion. The amendments proposed by a member from Pennsylvania were in order, and should

be first considered. If every member were to propose different systems, there would be no possibility of proceeding in the business. The object of the last speaker might be obtained by an alteration in the second section. It was easy to divide one mile square into tracts of 160 acres each. In the third section a subdivision might be proposed, if members pleased. He touched upon the subject of natural boundaries, and said he should be against the amendment, except he heard it explained more to his satisfaction.

Mr. GALLATIN declared his reason for bringing forward the amendment was, to have the important matter settled respecting the size of tracts. It was immaterial whether this amendment was introduced in one section or another. The bill, he doubted not, would be recommitted, and then the committee might place it where they pleased. He considered that there were three classes of purchasers; the first were moneyed men, who were commonly called speculators, who were not likely to settle upon the land they purchased, but who would sell it again for a profit; the second class were farmers of small property, who would purchase and settle upon the land; the third class were men who have not money to purchase, except the land was sold much below its value. He said there was no object of so great importance to the United States as the extinction of the curse of the country, the Public Debt, and no class of citizens would be more benefited by this extinction than the poor. It was in the power of the United States, he said, to redeem and extinguish the whole Debt in ten years. He considered that a certain proportion of farmers of small property, who are able to pay for land, and who wish to remove from their present situations backward, would purchase: he wished to give them an opportunity. But there remains another class, said he, who are likely to purchase large tracts; and this is the only class from whom poor persons can get lands. The farmer, he observed, would not buy land to sell. These poor persons must purchase on long credit, and pay out of the profits of the land. Many parts of the United States, it was true, had been peopled by persons of no property at all; but they got their land for nothing. After a term of fifteen years' possession, the State, indeed, called upon them for some trifling consideration. The purchasers of large lots may, it is true, choose whom they will credit, and what profit they will have; but this must be so. The money, by these means, would be got into the Treasury, and therefore he thought the amendment proper, by dividing the land into two classes. If the whole, he said, were to be divided into small tracts, persons would choose here and there, and prevent men of property from purchasing large tracts lying together. Mr. G. concluded, with observing, he might be mistaken in some things, in others he thought he was not, having paid much attention to the subject. It was necessary, he said, to make some compromises, in order to reconcile different opinions.

Mr. NICHOLAS was confirmed in his opinion that speculators would be of service in the dis-

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posal of this land. He was willing that the plan proposed by the amendment might be adopted, but was afraid by the alteration proposed, the certainty which was contemplated by the bill of a person's going over the land, and fixing upon this or that part, would be defeated.

Mr. KITCHELL thought the amendment might be so formed as not to destroy the parallel lines marked in the original bill, by inserting the amendment at the end of the section.

Mr. GALLATIN was willing to agree to the proposed alteration.

Mr. RUTHERFORD again occupied a considerable time in making objections against the bill, which were pretty much the same as those he brought forward yesterday.

Mr. CRABB was in favor of the amendment. It would provide, he said, for different classes of citizens, and, by causing the land to bring a better price, be productive to the Treasury. He was against having all the land laid out in large lots; in that case men of small property could not become adventurers, except by combining into companies—a plan he did not like. A member had said, it would still give moneyed men an opportunity of purchasing to advantage; he thought differently, as there would be great uncertainty in getting lots lying together.

Mr. HAVENS moved that the words "one-half" be struck out of the amendment. He had no doubt the amendment was brought forward with the best intentions; but it would not sufficiently prevent monopolizing. He thought if the land was put in small lots, which was the object of this motion to strike out, moneyed men would have all the advantages they ought to have.

Mr. MOORE said it was desirable that every citizen who had a wish to purchase a part of this land should be accommodated. Security in every purchase of land was a principal thing; and the security given by purchasers will not be equal to that given by Government. If the land were divided into small tracts, he doubted not the best land would sell immediately, and when that was settled inferior land would command a price equal to the best. He hoped the amendment would pass.

Mr. WILLIAMS said there would be no competition, if all the land were in large tracts. A man who can purchase a few hundred acres cannot oppose a man who is ready to purchase as many thousands. If the amendment was agreed to, the bill would be so framed as to accommodate all classes of purchasers, by laying out the lands into small and large lots, as the situation and quality of the land required; this would embrace two objects, to wit: the settlement of the lands, and bringing money into the Treasury, to discharge the Public Debt.

Mr. GREENUP did not like the amendment; he wished the whole of the land to be divided into small lots.

Mr. NICHOLAS observed, that persons who could purchase large lots, would not purchase small ones, and, therefore, the public Treasury would be injured by dividing the whole into small parcels.

Mr. DAYTON was against the amendment to the amendment. Some purchasers, he said, would go out in companies, and some single. If persons of the first description could not have a certainty of purchasing a sufficient quantity of land lying together, it would be a great discouragement to them. Besides, he said, the expense attending the mode, would exceed calculation. He was willing that a part of the lands should be laid out in small lots, but not that the whole should be so divided.

Mr. DEARBORN was against both amendments, because they would not answer the purpose intended. He thought the land would be settled without these regulations. He had no objection to the accommodating persons of small property, but he would lay out small lots in certain parts lying together. Persons, he said, who purchase with a view of selling again, would not purchase unless they were to purchase a township six miles square.

Mr. DUVALL was in favor of the original amendment; but he would burden the public with no expense of surveying lots less than one mile square, or six hundred and forty acres. Persons who purchased might divide such a lot into four parts, if they pleased, at their own expense. The large tracts of three miles square might be left for those who chose to purchase. He would confine all surveys to four lines, except in cases of water, &c. If these principles were agreed upon, the bill might be recommitted.

Mr. LIVINGSTON thought they should either adopt the plan of selling in large parcels only or in small tracts only. No person, he said, would purchase a large tract at the same price which a small one was sold for. He was in favor of the amendment amended. He was for dividing the land into lots of a mile square. It has been said if this was done, large purchasers would not come forward, because small lots might be taken from a parcel which they might wish to purchase together. The plan, he said, likely to reduce the Debt soonest, and encourage settlers, was the best. Small tracts will do this. They will bring a higher price, and from real settlers. The State of New York, he said, first divided their unappropriated lands into large lots, which sold from one shilling to three shillings per acre; afterwards they were divided into small tracts, and sold for two dollars per acre.

Mr. VENABLE said there was not one man in an hundred who could purchase three miles square of land; but ninety-nine out of an hundred might be found willing to purchase a small tract. A fair competition, he said, ought to be given. He saw no difficulty in dividing the lots. Purchasers might do this. The great mass of money in this country, he said, lay in the hands of persons of small property.

Mr. FINDLEY said the amendment to the amendment came nearest to his opinion of right. It was said putting the land in small parcels would prevent men of money from purchasing. Experience in this State, he said, contradicted this, where, though lots were limited to four hundred

acres, names are in the books for much larger purchases. When land was divided into small lots, no particular political interest was formed. He did not think large purchases were likely to accommodate poor persons. He believed many persons of this description were already on the lands. The expense of dividing the land into lots of one hundred and sixty acres each would not be so great as had been supposed: he would engage to do it for less than two per cent. on the lowest purchase. The surveys must not, he said, be taken by purchasers, but by a surveyor appointed by Government. He was not for sub-dividing the whole, but a part of the land.

Mr. KITTERA said it was wished, by making small lots, to prevent the necessity of purchasing of speculators. Instead of lots of six miles square, he would propose lots of five miles square, or sixteen thousand acres, as attended with more certainty in the division. Townships might then be divided into four cross lines, making four thousand acres, and then again into four, making lots of one thousand acres each. This might be done with certainty, would save expense in surveying, and answer the purpose of the amendment.

Mr. HAVENS again rose to defend his amendment, and said the reasoning against it was fallacious. Whatever part of the land was sold in large lots, speculators would get the profit of, but of the small lots Government would receive that profit.

Mr. DAYTON controverted the last speaker's arguments, on the same ground as before, that they would prevent companies of persons, or numbers of families agreeing to settle together from purchasing as they would wish.

Mr. CRABE was against the amendment to the amendment. He thought the last speaker had completely defeated the arguments in support of it. Both poor and rich classes, he said, would be disappointed by the proposed plan, and the view of gaining revenue would be frustrated. If smaller lots than a mile square be not laid out, thousands of persons would not be served. Farmers of middling property could only purchase. Two-thirds of the purchasers would be excluded. By laying out the land in large and small tracts, persons of every description would be suited. At least the experiment was worth trying.

Mr. SHERBURNE said if the whole of the land were to be divided into small lots, men of property would be excluded; as if they were to purchase a number of small lots, they could not sell them again on the same terms with Government. He did not think there were many families ready to go and settle upon these lands, as had been asserted; and he was not, he said, desirous of removing the inhabitants of the Atlantic States into these back settlements, but wished rather to import settlers. He was therefore for having part of the land in large tracts.

Mr. CLAIBORNE was for the latter amendment, and if adopted, he had a clause which he wished to be added. He thought the poor ought to be accommodated as well as the wealthy; and he

could not see that the latter would be excluded by the proposed division.

Mr. VAN ALLEN spoke a considerable time upon the subject. He was in favor of making the tracts five miles square, which might, he said, be so divided as to suit all purchasers.

At this point the Committee rose, and the House adjourned.

THURSDAY, February 18.

A member expressing a wish that before the order of the day was taken up, the bill granting relief to Lieutenant Benjamin Strother, for supporting a number of recruits on their march to the Army might be considered, and the sense of the House being in favor of doing so, it went through the necessary forms, was agreed to, read a second time, and ordered to be engrossed for a third reading to-morrow.

AMERICAN SEAMEN.

After disposing of a number of petitions—

Mr. LIVINGSTON wished to call the attention of the House to the cause of an important body of men, the seamen of this country. They were, he said, of three descriptions, native Americans, Europeans, or naturalized citizens. All these, said he, are equally entitled to the protection of the laws of the United States, though their profession sometimes puts them out of it. These men, he said, sailing under the American flag, have been illegally seized, cruelly torn from their friends and country, and ignominiously scourged; yet this country has for three years been silent, looking upon their sufferings with listless apathy. An instrument had indeed been formed between this country and that whose subjects had thus treated our seamen; but it was in vain that they looked for redress in that. He should, however, always think it his duty to endeavor to procure this ill-treated body of men some relief. He then read a resolution, proposing to appoint a committee to examine into the subject, and to furnish some remedy to the evil complained of.

After a few observations from Mr. S. SMITH, Mr. MURRAY, and Mr. SWANWICK, the resolution was ordered to lie on the table.

DISABLED OFFICERS AND SOLDIERS.

The order of the day being called for, Mr. TRACY wished, in order the sooner to furnish relief to their suffering fellow-citizens, that the order of the day might be dispensed with for a short time, for taking up the bill for the relief of wounded and disabled officers and soldiers in the actual service of the United States.

Mr. GALLATIN did not see the necessity of postponing the order of the day for the consideration of the bill in question; but he mentioned another which was of the first consequence, viz, the report of the Committee of Ways and Means for making further provision for the Public Debt.

The sense of the House being taken, it was in favor of taking up the business recommended by Mr. TRACY; and the House resolved itself into a Committee of the Whole on the subject, and

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agreed to the bill without amendment. The House then proceeded to take it into consideration. A few remarks were made by different members on the propriety of including in the bill wounded militiamen also. This was objected to as a separate consideration, which would be better brought forward at another time. The words, "fourth of March, seventeen hundred and eighty-nine," (restricting the benefit of the act to persons wounded subsequent to that time,) were, on motion, agreed to be struck out. The bill was then agreed to, and ordered to be engrossed for a third reading.

PUBLIC DEBT.

Mr. GALLATIN brought forward the consideration of the report of the Committee of Ways and Means on what further measures are necessary to reinforce the existing provisions for the Public Debt.

The House having resolved itself into a Committee of the Whole, Mr. GALLATIN moved three different amendments, which went to the making more clear the time of paying dividends, the making of payments more uniform, and the leaving open the rate of interest, which being severally agreed to, the Committee rose, and the report and amendments being read to the House, were agreed to as follows:

"Resolved, That, in respect to the funded stock of the United States bearing a present interest of six per centum, there shall be dividends made on the last days of March, June, and September, for the present year, at the rate of one and one-half per centum; and from the year one thousand seven hundred and ninety-seven to the year —, inclusive, at the rate of — per centum upon the original capital. That there be dividends made on the last days of December, from the present year to the year —, inclusive, at the rate of — per centum upon the original capital; and that a dividend be made on the last day of December, in the year —, of — per centum upon the original capital, in full of the said stock.

"Resolved, That provision ought to be made for reimbursing, in the same proportions as the other six per cent. stock, the balances bearing, and to bear, interest at six per centum, due to certain States, which were funded in consequence of an act passed May the thirty-first, one thousand seven hundred and ninety-four.

"Resolved, That the Commissioners of the Sinking Fund be authorized to appoint a Secretary for the purpose of recording and preserving their proceedings and documents; and that a sum not exceeding two hundred and fifty dollars be annually allowed the said Secretary for his services."

Ordered, That a bill or bills be brought in pursuant to the said resolutions, and that the Committee of Ways and Means do prepare and bring in the same.

NORTHWESTERN LAND OFFICES.

The order of the day was next taken up on the bill for establishing Land Offices, and the two amendments of Mr. GALLATIN and Mr. HAVENS being under consideration,

Mr. KITCHELL hoped, the words *one half* would not be struck out, as he wished purchasers of every

description to be accommodated. If the latter amendment were to pass, a favorite spot might be taken from the midst of a large lot, and prevent large tracts of land being sold. The Treasury, he said, should be considered as well as the convenience of purchasers. One half of the land divided into small lots would be amply sufficient, and the remainder remaining in large tracts, might be purchased by foreigners or others.

Mr. WILLIAMS said, the chief objections urged against small lots, were chiefly that they would not suit persons of large property to purchase so well as large lots. Persons of property, said he, can generally accommodate themselves; we ought to accommodate the lower classes of the people. He hoped the bill might be so framed as to embrace all the objects. He would not wish to prevent companies of persons from purchasing large districts; he believed there were such in this city who would wish to do so. Or townships, he said, might be divided into halves or quarters. By thus dividing their lands, the State which he represented had acquired three times the sum that they would otherwise have got. This plan had not, he said, prevented speculation; but it had excited a competition which had greatly favored their treasury. If the measures now agreed upon, should not be found the best, they might be remedied in the next Congress. A surveyor, he said, should explore this country, and point out the most valuable lots. These would bring a high price. When a settlement took place, he said, the unoccupied land near to it would immediately rise in price. It would be best, therefore, to do the business gradually, as this mode would eventually bring the largest sum into the Treasury; a sum which he hoped would nearly discharge the National Debt. It had been said, it mattered not who got the lands, provided we got the money; but, he thought it of the first consequence that the country should be settled with industrious freeholders. He concluded by hoping the latter amendment would be agreed to.

Mr. BALDWIN thought the original amendment went far enough; he believed the price put upon the land would be a sufficient check upon speculators. Perhaps it would be well, he said, to divide every alternate square into small tracts. If speculators bought the large tracts, when the small ones came to be settled, they would divide and sell theirs; or, if the large tracts remained in the hands of Government, they might afterwards be divided into small lots. He thought it best to commence the business with large and small lots.

Mr. MACLAY was of opinion, that the committee who brought in the present bill had principally the Treasury in view; but if a mode could be adopted that would equally encourage settlers and benefit the public funds, it would be desirable. It must be evident, he said, to every one, that an actual settler would not be able to purchase the quantity of land mentioned in the bill. He believed there would be no difference of opinion on that head. It would be well to inquire what plan would operate most to the advantage of the Treasury. He believed it was a fact generally allowed

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that the greatest quantity of the money in this country lay in the hands of agriculturists. These purchasers, then, should be met; for if the quantities of land offered be too great, or the price too high, these men would be shut out from the market; but he thought a system might be devised which would equally suit moneyed men and men of small property. In the extent of country they were about to dispose of, there was land enough to satisfy the demand of purchasers of every class. The only question is, the best way of doing this. It must be on terms which they can embrace. Men of little money must have small parcels of land, whilst men of large property may have as much as they please. Shall these purchasers be mingled together or separate? Persons purchasing small lots, would wish to be near their friends or connexions, who might also have been purchasers, that they might be of mutual service to each other. The way then, in his opinion, to meet both demands, would be to lay off one part of the land in large tracts, and the other in small lots. Besides, said he, suppose a lot of six miles square settled, the adjoining lots would immediately increase in value, and as no one would have a claim to it, it ought to go to the Treasury of the United States, which it would do, if the lands were undisposed of. The two plans, he observed, should by all means be kept distinct, as there was an impossibility of doing two things at the same time. One would interfere with the other. He said, the land they were about to dispose of, was a great common right to which every citizen in the country was entitled to a share, therefore, to bring it to market in such lots as but few can purchase, was injustice; besides, persons of small property would be lost as purchasers by such a conduct. If the Treasury, indeed, alone was considered, small lots would best answer the purpose. He said it would be also unjust to bring the whole of the land into the market at once; for, as it is a common right, all ought to have a chance of purchasing, and some persons who cannot just now raise money, might be able to buy in the course of a few years. Nor would it be prudent, he said, to glut the market. The quantity necessary for the present demand might easily be calculated.

With respect to boundaries, Mr. M. thought it easy to describe lots sufficiently correct, by means of rivers, creeks, &c. As one part of the country, he said, became settled, another would increase in value, and by a proper disposal of these lands the National Debt would be extinguished; but, if this plan failed, there would be no resource left but taxation, which it would be desirable to avoid. It has been said that the survey should be bound down by the cardinal points; this method, he said, might prove to be the most inconvenient of any. He concluded by saying, that policy and justice equally required that purchasers of every description should be attended to, and hoped, therefore, that the amendments would be agreed to, and the bill recommitted.

Mr. HARPER wished to call the attention of the House to the business immediately before it. Members still wandered, he said, and lost sight of

the point to be decided upon. If these desultory discussions were permitted, there would be no end to the business. Amendments have been made, he said, with a view of bringing before the House the question, whether the land should be laid off in large tracts, in part large and part small, or all small. Some members have given their opinion in one way, some in another. He wished the question to be decided, whether all the tracts should be of one size or not.

Mr. HAVENS again rose to support his amendment, and, in answer to the objection which had been brought against the plan of small lots on the ground of expense, said that the charge of surveying the land into lots of a mile square would not exceed 2d. per acre. In support of his argument, he referred to the experience of the State of New York.

Mr. COOPER said, that though the land in the State of New York had been sold in lots of 100 acres, no farmers were purchasers. He said, he bought many of the tracts himself. Neither did farmers purchase when land was sold at 8d. per acre, at vendue. The true cause of the land selling high in that State, was the competition of moneyed men at vendue.

Mr. HAVENS answered, that it was sufficient to support his amendment, to prove that land in small lots produced a better price than when disposed of in large tracts.

Mr. CRAEB, was in favor of the original amendment as embracing both the wholesale and retail plans. No attention, it is said, should be paid to moneyed men, they will take care of themselves. Though this was true, yet if the Treasury was to be served, it was necessary to accommodate them, as they could not be expected to become purchasers, if obstructions were thrown in their way. If our Treasury was indeed swelled with riches, there would be no necessity, perhaps, for this attention; but, in its present state, their money would be useful. We might say there is no man in the community who has not a claim upon our unappropriated lands. Every man has a right in them: but policy will not admit of a strict inquiry into this, yet we must go as near the mark as possible. It has been said, that selling a part of these lands would raise the price of those adjoining. This was true, and the strongest incitement to purchasers. Men of property, he said, would not lay out their money, if no chance of gain was held out to them. He thought if the price of the land was fixed at two dollars per acre, speculators who purchased it would not injure, but benefit the United States. If nothing, he said, was contemplated but the sale of a small portion of land, Government might reserve a part for future demands; but the Treasury wanted the money. No calculation, he observed, could be made of the quantity of land necessary for the present demand. Many persons would become purchasers who had not yet applied. He said the only way in which the poorer classes could get possession of land, would be by means of the purchasers of large lots, who would give them long credit.

Mr. GALLATIN thought the difference betwixt

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his amendment and that proposed by the member from New York, was not so great as had been conceived by that gentleman. He did not mean by his amendment (as seemed to have been understood by several members) that one-half of every tract should be laid out in small lots, but that certain townships should be laid out in large, and others in small lots. He thought the plan he proposed, would provide as many small lots as would be wanted, and more was unnecessary. The large tracts, he said, would be purchased by men of large property, and they would sell again to the poorer classes on credit, which was the only way in which they could get possession of a part of this land, as Government would not be inclined to give the credit necessary to be given to these purchasers.

The question being called for, the second amendment for all small lots was first put and lost, and then the first for large and small, which was carried without a division; and the House adjourned.

FRIDAY, February 19.

The committee to whom was referred the bill for establishing trading houses for the Indian tribes, with the amendments proposed by the Senate, report it as their opinion, that the amendments should not be adopted, except one of them which was read.

The bill for relief of certain officers and soldiers who have been wounded or disabled in the actual service of the United States, was read a third time. And the blank which was at first filled up with the words "4th of March, 1789," was agreed to be again so filled, as the member who moved these words to be struck out, said he found that the amendment would not include the persons he intended to include. The bill was then passed.

The bill for relief of Lieutenant Benjamin Strother was read a third time and passed.

DUTIES ON DISTILLED SPIRITS.

Mr. HARPER wished the unfinished business before the House to give way for a short time to enable him to present some resolutions relative to the duty paid on distilled spirits, for the purpose of committing them to the Committee of Ways and Means. The resolutions were accordingly read as follows:

Resolved, That the duties now payable on spirits distilled within the United States, ought to be transferred from the commodity, and laid upon the instrument.

Resolved, That the collection of those duties, and of all other internal revenues of the United States, ought to be made by the Collectors of the various States under the direction of the Treasury Department, and of the Supervisors of the Revenue, except in cases where the District Judge, on application of the Supervisor, shall declare any such Collector to be an improper person.

Resolved, That all fines and forfeitures incurred under the Revenue Laws of the United States, ought to be sued for in the State Courts; unless where the Commissioner of the Revenue, under particular circumstances stated to him by the Supervisor, shall otherwise direct."

Mr. HARPER observed, that though it might not be found practicable to carry all the proposed measures into effect, yet he wished them to be committed to the committee he had mentioned, in order to have their report thereon.

After a number of observations from several members, for and against the resolutions being committed, it was finally agreed to, 39 to 44.

AMERICAN SEAMEN.

Mr. LIVINGSTON said, as the unfinished business might take up much time of the House, before it was entered upon, he wished the resolution to be taken up, which he yesterday laid upon the table relative to the case of American seamen.

The House consenting, the following resolution was read, agreed to unanimously, and referred to a committee of five members.

Resolved, That a committee be appointed to inquire and report whether any and what Legislative provision is necessary for the relief of such American seamen as may have been impressed into the service of any foreign Power—and also to report a mode of furnishing American seamen with such evidence of their citizenship as may protect them from foreign impressment in future."

LAND OFFICES NORTHWEST OF THE OHIO.

The order of the day on the bill for establishing Land Offices for the sale of the Northwestern Territory, being again taken up, and the House having formed itself into a Committee of the Whole, and the second section being read,

Mr. HARPER said he wished to move an amendment. The vote of yesterday, he observed, had decided upon one principle of this business, viz: that the land should one-half be sold in tracts of a large size, and one-half in lots of a small size. Another important principle which he thought proper now to be determined upon, was, what quantity of land should be sold—whether the whole of the extensive territory, or a part of it only. It had been observed, that the two important objects in view were to produce revenue, and to lay off the land in such a manner as to conduce to its settlement. These were certainly important objects, he said, but not the only ones. Another object was, to adopt such a mode of settlement as should preserve peace, and continue to give a stable and orderly system of government to this new society. The object of revenue, he said, was not the most important though desirable—as we might do without this for the present—but to settle this land in a way so as to secure order and good government was of the first importance.

The bringing of the whole of this land into the market at once, Mr. H. observed, would be a great disadvantage; as it was a well known fact, that the price of a commodity always depended on the proportion the quantity to be disposed of bore to the demand. Here is a country, said he, containing twenty millions of acres—a part of which are appropriated and part unappropriated. The unappropriated part he supposed would amount at least to ten millions of acres—a tract considerably larger than many large States—larger than Maryland. What number of people, said he, is necessary to people this tract of country? More than can be

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spared from other States. To bring the whole of this land forward to sale at once would overstock the market; and if you sold at all it must be at a low price to moneyed men, and it would be even doubtful whether purchasers of this class could be found sufficient.

It will, therefore, said Mr. H., be necessary to make the object of revenue productive, to proportion the quantity of land to be disposed of, to the demand. If, instead of the present plan of laying out the whole Territory, one and a half million of acres were to be set out, this quantity would sell at a good price, be soon settled, and then an additional quantity adjoining to this might afterwards be laid off, which would bring a higher price, and be bought by actual settlers. The price of land must ultimately be paid by the cultivator, and if Government can meet his wants, it will be better than referring him to second-hand dealers. There were a class of cultivators, indeed, he said, who could be accommodated only by speculators. (In speaking of speculators, he said he did not mean to cast any odium upon the character; he thought land as fair an object of speculation as coffee, or any other article of merchandise.) The operation will be this: Government offers the land for sale at a minimum price. Persons applying for land will offer their plans, explain their wants, and fresh parcels of land can be laid off as occasion requires. Though, by a plan of this kind, so much money be not raised this year or next year to the Treasury, it will be best ultimately. Had a private individual a large stock of land to dispose of, he would adopt a similar proceeding; he would sell it off in parts and reserve the remainder in his hands to meet future demands as they should arise.

In support of his argument, Mr. H. cited the example of other States which had experience in business of this kind. If the whole ten million acres were to be exposed to public sale at once, it would either not be sold at all, or fall into the hands of capitalists. The 150,000 families which have been said to be ready to settle in this country would do but little towards purchasing this land. By this plan, Government would put into the hands of capitalists, to retail on any terms they pleased, that land which it should keep in its own for the accommodation of its citizens.

The next object, Mr. H. said, was to secure such a mode of settlement as would preserve peace and good government. This, he said, would not be done by selling the whole at one time, but by selling it progressively. To offer the whole for sale at once, and let persons settle on any part of this wide extended country, would be to put them out of all government, out of all reach of the laws of society, and take away from them all power of defence. On the contrary, to limit the settlements, would be to obviate all these difficulties. It might not, however, he said, be expedient to confine settlements to one point—there might be settlements in three different parts of this land, so as to accommodate emigrants from different quarters of the United States. Besides, this plan would increase in a greater proportion the value of the remaining

unsold land, as each settlement would enhance the value of the land in its vicinity.

Mr. H. concluded by saying it was an important object to attend to the manner of settling this country. Perhaps, he said, the most important differences which had arisen betwixt the different States in America, was owing to the different methods adopted in their original settlement. If a settlement was commenced by degrees, order begins at first, and grows with its growth, and strengthens with its strength; but if a country be settled before any regular order takes place, if a good Government is ever established, it is by struggling with a variety of difficulties. For these reasons, he thought it of vast importance to adopt the plan he proposed, and read his resolution, the purport of which proposes to divide and subdivide the lands within certain limits having reference principally to natural boundaries.

Mr. MACON asked if the motion was in order; he supposed it was not, as the section had already been amended. He thought it would be best to proceed with the bill, in the mode now pursued; he was sure the House would not get through the bill by next March twelve-month. He suggested to the mover the propriety of reserving his motion for the purpose of bringing it forward in the House.

The Chairman considered the motion as out of order, unless part of the amendment agreed to yesterday was first struck out. Mr. HARPER agreed to alter his motion, so that it might not interfere with that amendment, which he was not opposed to.

Mr. SWANWICK.—The only thing that appears to me to be material to inquire, is how far we have occasion for money, so as to engage us to enter into the sale of these lands. It is allowed on all hands to be a very desirable measure to pay off our Debts. The PRESIDENT has strongly recommended it in each of his Addresses to several successive Legislatures. No blame can rest upon him if it be not done; the moment appears favorable. Owing to the war in Europe all funded Debts are low in price; though we are not engaged in the war, yet our stocks feel the effect; they are even below the British in the market rate in London, according to prices lately quoted from thence, which I attribute in a great measure to the interest being payable, and the principal transferable here only. At the peace it is probable all these funds will rise, perhaps twenty-five to thirty per centum or more, beyond their actual rates; as in Britain, before the war, their three per cents. were nearly at par value; at that rate our six per cents. may be worth twenty-five to thirty shillings per pound deferred, and three per cent. in proportion. Whether lands will rise in proportion to the rise of the price of our Public Debt in the market, is uncertain. The general eagerness to sell lands, and the general idea of their present high prices, seems to indicate the contrary as the most prevalent opinion. Be this, however, as it may, I cannot see that it is less right for a nation, than it would be for an individual, to sell off his landed property to pay off

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his Debts. On this principle, therefore, consulting all due fairness and publicity in the sale, and dividing the tracts so as to accommodate the greater number of purchasers in the market, I believe we shall run no risk of doing wrong in bringing these lands to sale.

Much has been said about speculators and settlers; a good deal about laying out the lands in particular divisions to suit emigrants from different States; but, however laudable I consider the views of gentlemen who have supported these ideas, yet I cannot conceive them as solid as they suppose. It is immaterial to us who buys the lands so we get a good price for them. Speculators will probably purchase, because they have capital, and can afford to give long credit on the lands; but our plan being to pay off our Debts most advantageously, we must have the money soon to effect it. I have, therefore, no fears of speculators. Their money laid out in paying off our Debts, will do us at least as much good as our lands will do them; for the moment we get our Debts paid, our revenues of seven or eight millions a year will be freed, and at our disposal; by this means we shall cease to be told that our Treasury is empty, and that we must sell off the materials of our frigates, because we cannot afford half a million of dollars to finish them. Our roads, the object of a gentleman from Virginia, can then be perfected; and our seamen, the object on which another gentleman from New York has laid a motion before you, will receive ample protection. In short, nations, like individuals, are respectable only in proportion to their resources. If ours are released from their actual embarrassments; if our Debts are paid, and our revenues left at our disposal, a few acres in the wilderness will have produced the great blessings of peace, union, and respectability, on the Atlantic, and the independence and sovereignty of our country will be, as it ought, properly asserted. For such purposes I think it worth while to employ the present moment of avidity to speculate in our lands, so as to clear off our Debts and produce a nett revenue to our Treasury, to be employed to the most salutary purposes of internal improvement and of exterior defence.

Mr. DAYTON said, if he approved of the principle, he should not approve of the loose manner in which the proposed amendment was drawn up. If the principle recommended in the resolution was adopted, tracts should be marked by certain lines or boundaries; but as he disapproved of the principle, he should not dwell upon the form of the resolution. He thought the arguments of the mover more specious than solid. Every one would see that by limiting the price of the land, the quantity was also limited. The settlement of land, he said, increased the value; but if purchasers be confined to a certain situation, no value will be put upon land five hundred miles distant. If the plan of the committee be adopted, he said, all the land will increase in value. Land contiguous to a settlement now not worth a dollar an acre, will then be worth two dollars. Every year a fresh quantity of land can be brought into the

market. Mr. D. did not understand what the mover meant by fixing settlements in different quarters of the land to suit different parts of the United States.

Mr. HARPER explained.

Mr. NICHOLAS said it was necessary to throw land enough into the market to meet the demand. He said they had not only land to dispose of, but they had a million and a half acres of such land as could not be found anywhere else, and if they should limit purchasers to certain districts of the country, where there is good and bad land, if only one-fifth be good, four-fifths of purchasers will be discouraged. If inducements, said he, are to be held out, they must be such as cannot be resisted. Suppose, he said, they were successful in selling one and a half million of acres on the frontiers, nothing would be added to the value of the land in the interior country. The demand for good land, he said, would be certain, and all the rest would become so by settlement. With respect to civilization, so much dwelt on by the mover of the amendment, he had so little theory on the subject, that he should not have thought of introducing it. He lived, he said, where Government scarcely showed its arm, and there seemed to be no defect. The people were just, orderly, and happy; and yet this State was settled in the way which was described as introducing nothing but disorder.

Mr. GALLATIN said, there were two considerations which favored the mover's principle of bringing forward only a limited quantity of land at a time for sale, which were the self-interested landholders, and the fear of too great an emigration from the Atlantic States to this country. He dwelt a considerable time in remarking on these two different views, and concluded with dissenting from the amendment in its present form.

Mr. HARPER replied to the several objections which had been made to his amendment. The propriety of the remarks of the gentleman from Pennsylvania [Mr. SWANWICK] relative to the funds, derives all its force from the practicability of immediately raising a sufficient sum of money from the sale of the lands, in order to going into the market now while the funds are low; but he conceived that no gentleman had an idea that this could be suddenly done. The diminution of the Public Debt is a most desirable object; but an immediate operation to this purpose, from this source, was a thing quite out of the question.

He next noticed the remark of Mr. DAYTON, relative to sparse settlements. He said the gentleman's reasoning might apply to a comparatively small territory, but applied to a territory of twenty millions of acres, was lost. The gentleman had reference to Symmes's purchase, a tract of about 1,200,000 acres, settled by about 5,000 families. That tract had appreciated in value in consequence of the sparse settlement. But extend the idea to twenty millions of acres, and twenty times five thousand families would form but a thin settlement of the country supposed to be laid open.

His amendment however, agreed in some mea-

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sure with that of the gentleman. He was in favor of a sparse settlement, so far as extended to forming three or four grand central points, round which settlements may be extended to certain limits. Mr. H. added many other observations in support of his amendment, which he defended with great ability and ingenuity.

The motion being put on the amendment, it was lost.

The third section of the bill being read, Mr. HARPER said there was a necessity of striking out some words in order to accommodate it to the amendment passed yesterday.

Mr. WILLIAMS moved an amendment to have the lands sold by auction, in order to bring the question before the House.

Mr. NICHOLAS proposed a motion to supersede that of the last member to nearly the same effect.

After several observations from different members, principally in favor of a sale by auction, the Committee rose, reported progress, and asked leave to sit again.

MONDAY, February 22.

The committee to whom was referred a bill originating in the Senate, for the amendment of an act to encourage Useful Arts, report as their opinion, that it would be inexpedient and impolitic to pass the said bill into a law.

The report was ordered to lie on the table.

Mr. HEATH proposed to the House a resolution to the following effect:

Resolved, That until a Stenographer be appointed, or further provision made for taking the debates of this House, no printer be permitted to publish abstracts of the Speeches of members, unless permitted by the members making the same."

Ordered to lie on the table.

WASHINGTON'S BIRTH DAY.

Mr. W. SMITH moved that the House adjourn for half an hour.

This motion occasioned a good deal of conversation upon its propriety. In favor of it, it was said, that it had been a practice ever since the commencement of the Government, for that House to make a short adjournment on that day in order to pay their compliments to the PRESIDENT, and that several members were absent, from an idea that the House would adjourn at 12 o'clock as usual. On the other hand, it was objected that it was the business of the members of that House first to do their duty, and then attend to the paying of compliments; that just at that time the house of the PRESIDENT was filled with militia and others; and that, therefore, it would be better, upon the whole, to wait upon the PRESIDENT after the business of the day was finished.

Mr. GALLATIN moved that the words "half an hour" be struck out.

The sense of the House was first taken on the amendment, which was lost, without a division. The motion was then put and negatived, being 38 or it, and 50 against it.

LOAN TO THE CITY OF WASHINGTON.

It was moved that the unfinished business of Friday be laid aside, to take up the consideration of the bill authorizing a loan for the use of the City of Washington.

The resolution being carried by a vote of forty-eight against thirty-four, the House formed itself into a Committee of the Whole, Mr. MULLENBERG in the Chair, and the first section of the bill being read, and also the resolution of the House, authorizing the committee to bring in the bill—

Mr. SWIFT wished to know why the committee had deviated from the principles contained in the resolution directing them to bring in the bill. By this bill the buildings in the City of Washington are to be conveyed to the PRESIDENT OF THE UNITED STATES, though there were no instructions in the resolution of the House to this effect.

Mr. JEREMIAH SMITH said the lots were conveyed to the PRESIDENT, in order to reimburse the loan authorized by the Senate, and as a security for the sum to be borrowed by the PRESIDENT in consequence of the present bill.

Mr. BRENT said the bill was framed in a mode which the committee thought best calculated to carry into execution the resolution of the House.

Mr. SWANWICK objected to the bill on the principle, that if the United States were to accept a grant of the lots in the Federal City, they might, if they thought proper, afterwards grant such a sum as they should suppose sufficient for completing the public buildings, out of the general funds; but he was entirely against opening a loan for the special purpose; first, because he thought it degrading to the United States to have it observed in Europe, or elsewhere, that they could not complete the buildings requisite for their own immediate use, without making a loan for the purpose; and secondly, because he had no notion of superadding to the public faith any security of lots, as it might prove injurious to the United States to have loans opened in various quarters on different securities, though ultimately bottomed on the same stock, viz: the credit of the United States. On these grounds, he was for having the bill recommended, to be new modified.

Mr. NICHOLAS offered his observations upon the bill; but from the firing of cannon, the beating of drums, &c., which took place during his speaking, in honor of the PRESIDENT's birth day, the reporter could not hear his sentiments sufficiently distinct to attempt an abridgment of them.

Mr. S. SMITH moved that the fourth section of the bill offering lots as a security of money borrowed, be struck out as altogether unnecessary.

Mr. CRABB said the lots were not offered in aid of the credit of the United States; but as a security to them for the money borrowed under their authority.

Mr. BRENT said, if this section of the bill was struck out, the object of it would be defeated. The preceding clause provides for the conveying of the lots to the PRESIDENT as a security for any sum of money he shall borrow for com-

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pleting the buildings. And provided the property be not equal to the payment of the money borrowed, the United States guarantee the making good the deficiency. If this clause were struck out, the lenders of money would have no further security, if the buildings were not sufficient to pay. So that, after passing this act, the business would remain in the same state it was in before the House took it up. It has been said, that it would be derogatory to the dignity of the United States to offer these lots as a security, in addition to their own credit; but, that a person should become disreputable by offering too ample a security, was a novel doctrine to him; and that gentleman's ideas of dignity and his, were so opposite, as not likely to meet. It has been said, that it will be necessary to open a loan for 600,000 dollars on the public account, and he could not see the dishonor of opening a loan for this object more than for that. The form of the act was necessary to secure the repayment of money received by the Commissioners, and it was necessary that the lots should be conveyed to the PRESIDENT as a guarantee for the money borrowed. He was, therefore, for the bill remaining in its present form.

Mr. SWIFT thought the faith of the United States sufficient for money lenders, and expressed his disapprobation of the bill in other respects.

Mr. HILLHOUSE said, if it would be in order, he should wish to move that the Committee rise, and that the bill be recommitted in order to have it moulded into a somewhat different form.

Mr. DAYTON wished, as there was matter perfectly new to him introduced into this bill, that the Committee would rise, that the bill might be recommitted, and formed agreeably to the resolution of that House authorizing it to be brought in.

Mr. JEREMIAH SMITH had the greatest respect for the opinion of the last speaker; but could not see the difference stated by him to exist between this bill and the resolution authorizing the committee to bring it in. This he endeavored to show at considerable length, and observed, that the committee did not conceive themselves confined to the words, but to the spirit of the resolution.

Mr. NICHOLAS justified the form of the bill, as being agreeable to the resolution of the House, and said if the fourth section was struck out, the law would be destroyed altogether.

Mr. SENGWICK wished the bill to take a different form.

Mr. MADISON did not see any necessity for the Committee to rise. He thought the bill conformable to the resolution of the House, and sufficiently simple in itself.

Mr. SWIFT was for having the bill recommitted. He wished to know how far a committee had the power to deviate from a resolution instructing them to bring in a bill. He said there were new principles introduced into this bill which he could not agree to.

Mr. GALLATIN said there was no necessity for recommitting the bill. If any provisions of the bill required amendment, the present was the

time to amend them. He, therefore, saw no ground for the Committee to rise on that head.

Mr. BRENT was very desirous that a final decision should be come to on the subject; as whilst it was yet pending, the property in the Federal City was subject to much speculation, the minds of persons concerned were kept in an unsettled situation, and the season was advancing in which the Commissioners wished to take steps to forward the undertaking. He answered the objections which had been made against the form of the bill, and justified the conduct of the committee. He remarked upon what had been said with respect to the security offered for the meditated loan. He acknowledged that the credit of the United States was good for any amount, and said that the lots were intended as a security to the United States, and not to the persons who subscribed money to the intended loan.

Mr. S. SMITH understood that the Commissioners of the Federal City were to make the loan in their own name; but in this bill the PRESIDENT of the UNITED STATES guarantees the loan, which, he thought, would interfere with the interests of the United States. He should, therefore, vote for a recommitment. The fourth clause of the bill, he thought useless, and objected to the making of a loan with a mortgage of lots. But though he made this objection to the bill, he was in favor of furnishing money to complete the works in this city.

Mr. HARPER wished to suggest some ideas by which the question might be immediately taken. The first plan was, that the Commissioners of the Federal City mortgage the property, and that the United States should give security; another plan was that the property should be vested in the United States, and assigned to the PRESIDENT. He thought the latter plan the best, but it would be extremely proper that the sense of the Committee should be expressed. If the motion, then, for the Committee to rise could be withdrawn he would move to strike out certain words, to introduce the proposed amendment.

Mr. GILES wished the subject to go before the committee again; but, he said it was necessary they should have instructions upon which to act, as they could not be guided by a debate of that House only.

Several members calling for a rising of the Committee, it rose, and asked leave to sit again.

TUESDAY, February 23.

The Committee of Ways and Means gave in their report on the revenue laws, which was twice read, and ordered to be committed to a Committee of the Whole House on Thursday.

LOAN FOR THE CITY OF WASHINGTON.

The House having resolved itself into a Committee of the Whole, on the bill for authorizing a loan for the use of the City of Washington,

Mr. WILLIAMS proposed an amendment, which, after a few observations from Mr. MURRAY and Mr. JEREMIAH SMITH, was withdrawn.

Mr. VARNUM said he understood a motion had been yesterday made to strike out the fourth clause of the bill; but the gentleman who had made the motion not appearing in his place, he renewed the motion to strike out that clause.

Mr. MURRAY thought that clause essential. For though he believed the lots worth considerably more than the money proposed to be borrowed, yet more implicit confidence would be placed on the security, and it would be a means of accelerating the business, if the sanction of the guarantee of the United States was added to it.

Mr. VARNUM objected to the United States guaranteeing this loan. He did not know with any certainty what would be the expense of the proposed buildings, or the extent of them. To guarantee this loan, was to guarantee what they knew not; and if they guaranteed it, he believed they would have the money to pay. He was of opinion the whole of the buildings necessary for the use of Government might be built for a less sum than was asked to finish what was already begun. Why should the United States guarantee the loan? Because it would be for the interest of certain individuals. It would be the interest of the United States to sell the whole of the lots, and then guarantee a loan. At any rate, before the United States went into the business, they ought to know to what extent they pledged themselves.

Mr. CRABB said the fourth section was a necessary part of the bill, which was to complete a great national object. He could not see therefore, why it should be objected to. If, indeed, gentlemen wished to defeat the whole business, it would be well for them to declare their intentions at once. It has been said, if the United States make the guarantee, there is no security, but they may have to pay the money. There was all the security that could be expected—a vestment of the lots. It was laudable to attend to economy in public affairs; but there would be no economy in refusing to make the guarantee required, but the reverse; as, in that case, the property would not sell for one-third of its value; and if the Government was to be removed there at the time proposed, the money for completing the necessary buildings, would have to be drawn from the Treasury. He expatiated at considerable length on the merits of the bill, and insisted upon its conformity to the resolution empowering the committee to bring it in.

Mr. HILLHOUSE was in some degree of the same opinion with the member last up. But he thought it impossible to draw a bill which should perfectly correspond with the resolution of the House so frequently referred to. It had been said yesterday that it was not possible to frame a bill more conformable to the resolution than the one now under discussion. To show that this was possible, he had drawn up a clause which would make the bill in perfect unison with the resolution. [He read the clause.] The bill, so altered, would not tie up the lots so that they cannot be sold to raise the money. And if this clause was adopted, the United States would not

be called upon for the money. He wished, therefore, the Committee to rise, and recommit the bill.

Mr. W. LYMAN was against the Committee rising. He wished the sense of the House to be taken, whether it was in favor of the United States guaranteeing the loan, or not. He did not see anything material in the bill which was not in the resolution of the House, except what related to public squares.

Mr. MURRAY said, to strike out the fourth section of the bill would be to do violence to the property in the Federal City. The first clause transfers the property into the hands of the PRESIDENT, and now objections are raised against the clause necessary to complete the business. If gentlemen mean to destroy the bill altogether, it should be done in a way not to injure the property of individuals.

Mr. RUTHERFORD spoke in favor of the bill.

Mr. SWANWICK was in favor of the Committee's rising for the purpose of recommitting the bill. He objected to the bill generally upon the same ground as yesterday, with respect to joining the securities of the lots, and the faith of the United States together. He asked how the passing of this bill could give value to the buildings of the Federal City? Is it not already enacted that Congress shall sit there in the year 1801? The value of the lots was to be increased only by selling them to a number of persons. The city must owe its prosperity to its peculiar advantages as a commercial spot, and not from its being the Seat of Government. It was, therefore, the interest of the United States to sell the lots and induce people to settle there. The higher price the lots bore, the greater would be the obstacles to settlement. If it was the intention of the United States to grant money for the completion of the building, let the House say so. When it was first proposed to remove the Government to the Federal City, it was said that it would be the interest of persons to give lots to encourage the Government to come there. The security now asked for was never contemplated. He had, however, no objection to the United States granting money, but he was against the making of two loans, one on the credit of the United States, and another on that of the United States and certain lots.

Mr. DAYTON did not altogether like the present motion, and he was against the form of the bill. He wished it to be determined, whether the United States were only to become eventually guarantees for the money borrowed, and whether on the sale of any lot it should be exonerated from the loan. The property he should wish to be placed in the hands of the Commissioners, or in the PRESIDENT, to make sale of it.

Mr. GALLATIN was against the Committee rising, and against the bill being recommitted, until principles be agreed upon on which they mean the bill to be recommitted. Two or three plans, directly contrary to each other, are produced, yet all are in favor of a recommitment. It was necessary first to establish the principle. A gentle-

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man had said he had drawn up a clause, which would completely carry the resolution of the House into effect, but he thought the bill before the House more conformable to that resolution than the clause proposed, which contains a different principle. He wished, therefore, that the gentleman would withdraw his motion, for the purpose of settling the principle.

Mr. HILLHOUSE had no objection to withdraw his motion.

Mr. JEREMIAH SMITH thought it would be economical in the United States to guarantee the Loan. He thought the substitute offered for a clause of the bill more defective than the one it was meant to supply. He said the United States would not be actually responsible for any part of the money borrowed; and the committee had thought they could not do better than place the property under the direction of the PRESIDENT; but if it was thought too heavy a burden to be laid upon him, the business might be placed in the hands of the Secretary of State or Secretary of the Treasury.

Mr. S. SMITH said, the House was willing to give its responsibility; the way of doing it, was the matter contended for. If the fourth clause had been agreed upon to be struck out, he should have introduced another in its place. If the bill remained in its present state, he said, the United States cannot sell the lots; the people, therefore, who go there, must purchase of speculators, who may ask what price they please. It has been said, to strike out the fourth section would be to destroy the bill; if so, he would not vote for it. If the fourth section were struck out, he would return to the second, and make some alteration in it, so as to pledge the faith of the United States. It was ridiculous, he said, to think of mortgaging lots for the money to be borrowed; there was no occasion for a counter-security to the faith of the United States. The bill, in its present form, was calculated to advance the price of the lots for the interest of speculators. He would have the faith of the United States pledged for the proposed Loan, and the lots consigned to them as a security. He saw no occasion for the first section of the bill, as he believed the property already vested in the United States, and that the Commissioners cannot convey any lots without the consent of the PRESIDENT—at least, that they ought not to do it. He wished the Loan to be made by the Commissioners, with the guarantee of the United States.

Mr. CRABB replied to the arguments of the last speaker, and noticed what had fallen from Mr. SWANWICK, on the subject of tacking the faith of the United States and the lots together. He said that gentleman knew it to be the practice of bankers to require endorsers to the notes of men of the first property, and the guarantee of the United States was on the same principle. There would be no necessity for the guarantee of the United States, if the property was as well known in Europe as it is known here. He said, the House had the assurance of the PRESIDENT, that if the property was duly attended to, it would be worth all the money borrowed. But suppose

the property was not worth the money, the passing of this bill will not lessen, but increase its value. He said, the faith of the United States was already pledged, and they were bound to pass the present bill.

Mr. MURRAY thought it would save time, if the motion for striking out the fourth section was withdrawn, for the purpose of considering the first and second sections.

Mr. VARNUM consented to this, but again cautioned the House against guaranteeing what they did not know the extent of. He believed the property would not be equal to the money to be borrowed; and although the PRESIDENT considered the property as of that value, yet it became them, as a branch of the Legislature, to be convinced of it also. If it be true that there is money enough in the hands of the Commissioners to complete the buildings, there is no occasion for this Loan.

Mr. JEREMIAH SMITH said, the committee who brought in the bill thought, as the United States were made responsible, they ought to have a security under their immediate control. If this had not been the case, he should have been against the bill. He went into an explanation of the nature of the Federal City property, and showed that gentlemen were mistaken when they said that the United States had already the property in their hands; they had no control over it, and could not prevent the Commissioners from alienating it, but if this bill pass, they will have that power, and security for the Loan proposed to be negotiated.

Mr. DAYTON conceived the object of reconsidering the first and second clause was to reconcile two opposite principles introduced; this, he said, might be done by moving to strike out a part of the first, or a part of the second clause; he thought the latter would be the best.

Mr. HILLHOUSE wished to move to strike out the first section, in order to introduce another, which he read, for guaranteeing only a part, instead of the whole Loan. He thought the business should still remain in the hands of the Commissioners.

Mr. GILES thought the plan proposed by the member from New Jersey best adapted to taking the sense of the House.

Mr. DAYTON proposed an amendment to the second section, which went to the preventing of lots being mortgaged, and to enable the PRESIDENT to sell them.

Mr. JEREMIAH SMITH would not oppose the motion, though he thought there was no necessity for it, as he believed the PRESIDENT would have the same power as the bill stood.

Mr. BRENT said, it was the wish of the committee that the property might remain in the hands of the PRESIDENT, to be disposed of as he thought proper; but as different members seem to think the property will not be at sufficient liberty to be sold, by the bill as it stands, he should vote for the amendment. It had been said, by a member, that before he voted for the bill, he should wish for information respecting the extent of the intended Loan, &c. If that gentleman had attended to the documents laid before the House, he would have

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seen accounts of all the money received and expended, and how much was necessary to complete the business. He may, therefore, be easy on that subject. It had been said, if the lots be a sufficient surety for the Loan, why guarantee it? At present, he said, they were not sufficient. Mr. B. observed, that the bill before them would be considered as the touchstone to determine whether the Seat of Government will go to the banks of the Potomac, or not. Motives of policy and economy, and objections to increasing the Public Debt, will not apply in this case. The very act provides funds to guarantee the Loan; for though the property, until the proposed Loan be guaranteed, would sell for a mere trifle, when it is guaranteed it will sell for a great price. So great a difference would it make, that he believed property which will then sell for two millions of dollars, would not otherwise be worth one hundred thousand dollars. If, therefore, gentlemen are against the bill from economical views, they are mistaken; for, it was his opinion, the property would not only pay off the Loan, but eventually be a considerable fund towards the discharge of the Public Debt. It had been suggested that the United States were under no obligation to make this guarantee. He thought differently; he believed the credit of the United States materially concerned. The public have relied fully upon the countenance of Government in this business; many persons, indeed, have made great sacrifices to procure lots in this new city, and if, after holding out temptations to people, Government should not go there at the proposed time, all these persons will be ruined, and a stain will be laid upon the national character. He hoped, therefore, no objection would be made to carrying the bill into effect.

Mr. SEDGWICK could not consent to the proposed amendment. He had no objection to the guarantee, but he did not consider the United States as under any obligations to provide accommodations for the Government in the Federal City. The friends of the act when it passed, every one who was present at the time must remember, disclaimed all intention of calling on Government for this purpose; he could not conceive, therefore, with the gentleman who spoke last, that the faith of the United States was any way pledged. Motives of accommodation would, however, influence him to vote in favor of the guarantee. But he was against the amendment; as, if the funds proved inadequate, every one would look to Government to make good the deficiency. He was willing to guarantee the loan of half a million. To pledge the United States for the whole of the deficiency, if ever so great, he was not willing.

Mr. MURRAY thought the objection of the last speaker might be done away with by an attention to the third section of the bill, which says the PRESIDENT shall sell the lots, to make good the Loan. He hoped the amendment would pass.

Mr. GALLATIN said, an objection was made to the amendment, because it was a deviation from the original law. We are told, said he, of a sort of contract, and members are called upon to recollect the conditions. He should, however, follow

the law. It is said, that Government shall be at such a place, in such a year; but if they change their mind, they may establish Government where they please. The question is, whether the law is to be carried into effect or not. He believed they had the power to determine this. The law says the Government shall be transferred at a certain time; by another law, certain buildings are to be erected by the PRESIDENT. The law must, therefore, either be carried into effect or repealed. The amendment under consideration, Mr. G. said, placed the Loan on the credit of the United States, and not on the lots. It was possible they might have occasion to borrow money on public account, and it would be an awkward circumstance to have two different kinds of Loans. By this amendment, the PRESIDENT has also the power to sell the lots when he pleases, and either pay off the Loan with the money or deposit it in the Treasury. He was, therefore, for the amendment.

Mr. SEDGWICK explained.

The Committee now rose, and asked leave to sit again.

WEDNESDAY, February 24.

ALEXANDER D. ORR, from Kentucky, appeared, was qualified, and took his seat.

Mr. HILLHOUSE, of the committee to whom it was referred to bring in a new bill for regulating intercourse with the Indian tribes, and for preserving peace with the Indians, presented a bill; which was read a first and second time, and ordered to be committed to a Committee of the Whole on Monday next.

LOAN TO THE CITY OF WASHINGTON.

The House having resolved itself into a Committee of the Whole, Mr. MUHLENBERG in the Chair, on the bill for authorizing a Loan for the use of the Federal City—

Mr. SWIFT observed, it had been said that the fate of the bill depended upon the fourth section; he thought not. He was ready to guarantee the Loan, but would have the money obtained on the lots, and the faith of the United States pledged only for any deficiency which might remain eventually. He wished to keep the United States as detached from the subject as possible, by letting it remain in the same channel which was intended by the original act. The Commissioners might then proceed as usual. If this plan was adopted, he would move not to strike out the words proposed to be struck out; as, when the principle was settled, he should wish the bill to be re-committed.

Mr. HAVENS did not think the motion for striking out certain words of great importance. He saw no impropriety in borrowing money on lots; he did not think money lenders would be influenced in any considerable degree by the lots being in the security; but if it was the opinion of a majority of members, that this would be the better plan, he should not object to it.

Mr. DAYTON said the words moved to be struck out were certainly of consequence, as they admit-

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ted of two constructions. If the amendment took place, he said, the United States would not be pledged, as had been stated, to finish the buildings; all they would be pledged for would be to make good any deficiency which there might be before the sum guaranteed by the present bill and the amount of the sale of the lots. If, indeed, the lots produce more money than will pay off the Loan, then the surplus might be applied to the finishing of other buildings; but he did not consider the United States pledged by the present bill to a greater amount than the sum with which the blank in the bill would be filled up.

Mr. SWIFT said, his wish was that the business should go on in the hands of the Commissioners, as heretofore. This bill, he said, changes the original principle of the plan, by placing the whole of the property in the hands of the United States, leaving it with them to complete the buildings. When once this is determined, he said, the United States might consider the Federal City as a child of their own; and the moment it is known that the Government has interfered in the matter, every expense attending it will be increased. This was a necessary consequence, and ought to be guarded against.

Mr. WILLIAMS was in favor of the buildings remaining in the hands of the Commissioners. He could wish to move, in order to have an important principle decided upon by the committee, that the words "the PRESIDENT OF THE UNITED STATES" be expunged. Until this was decided upon, he said, they might go on from day to day, without making any progress in the business. [On being informed by the Chairman that his motion was not in order, Mr. W. proceeded to remark generally.] He said it was imprudent to go farther than the original law intended. When business of this sort, he said, is taken up by public bodies, there is no end of the expense. It had been said, great economy had been used by the Commissioners; he did not think so. He called for the reading of a paper, which lay on the Clerk's table, stating the expense already incurred; which being read, he remarked, that for the single article of surveying alone, more than twenty-two thousand dollars had been paid. It had been computed, he said, that 700,000 dollars would complete the contemplated buildings, but when the high price of materials and labor were considered, most gentlemen would think with him that it would require three times that sum. It was calculated, he said, the other day, that two hundred thousand dollars would complete the buildings for the reception of Congress. There were now lots sold to the amount of three hundred thousand dollars; but it is supposed there will be a failure in the payment of this sum; but it has not been stated why. Is it right, said he, for Government to interfere in this business, to advance the value of property purchased by individuals on speculation? When they legislated, he said, they should legislate with their eyes open. A gentleman had said, that members who opposed the bill would do well to throw off the cloak; he wished the cloak to be thrown off on all sides. But we are told,

that if we do not give energy to this business the public will not have assurance that the Government will be removed to the Federal City at the appointed time. There was no ground for this remark, as the original act stood unrepealed, and he hoped would remain so. He wished to keep that act in view, and not vary from it. He said the public buildings had been begun upon a wrong principle—upon a plan much too magnificent; they were more so than any palace in Europe: they would cost a million of dollars more than calculated. And, said he, everything must be in proportion: the officers who go into those palaces must have their salaries proportioned to the grandeur of their habitations.

Mr. WILLIAMS supposed he should be told this land was a gift—but where is the gift? Was not every other lot reserved to the proprietors? and are not these lots now more valuable than the whole was when it was first laid out for a city? It had been resolved, he said, that the permanent Seat of Government should be in this city, and he was willing it should be so. He did not think with some members, that by keeping the lots in hand they would increase in value; he thought the contrary. He wished the House would agree to complete the public buildings alone; for, he believed, the instant the United States guaranteed a loan they would have it to pay, and he did not think it right to engage in anything likely to increase the public debt. He thought the best plan would be to sell the whole of the lots whilst they will bring a high price—he should not object, however, to a reasonable guarantee, but would, by no means consent to the United States taking the business wholly into their own hands.

Mr. DEARBORN said, there appeared a reluctance to give the House the documents relative to the public buildings. The committee, he said, should receive some information on the subject of the money due on account of lots sold, with respect to a part of it being doubtful.

Mr. BRENT believed, if the gentleman examined the memorial of the Commissioners, he would find the papers alluded to. The Commissioners who made sale of the property, he said, were not now the Commissioners. The contracts they made were supposed to be good at that time. The first stipulated payment had been made, the second had been some time due, and was not paid. There was, therefore, reason to believe there would be some failures. It was one of the conditions of these contracts, that a certain number of houses should be built in a given time. Part of these houses have been erected; he believed there were nearly 300. There is no danger, therefore, he said, if the purchasers should not complete their contract, of there being any eventual loss; but, in the meantime, immediate resources are wanting to prosecute the buildings in hand.

Mr. GILES wished this subject might be treated with candor. He hoped gentlemen who were opposed to the principle of the bill, would allow the committee to form as unobjectionable a bill as they were able. He thought it unfair to prevent a thing being brought into as perfect a state as

possible, by attempting to destroy it. When the bill has received its final shape, gentlemen could then object to it if they chose. The present question was on the striking out of certain words, which he did not think material. The arguments in favor of striking out on the ground of a double construction, had some weight, but he did not think the objection valid. The guarantee, said he, will be sufficient to satisfy every purchaser; but it was said, the object of this motion was to reconcile different opinions; if that could be done he had no objection to it.

Mr. GILES wished to remark on what had fallen from a member from Pennsylvania yesterday, with respect to the law providing for the removal of the Seat of Government. That law, he said, differed from all others. The Constitution, itself, he said, prescribes the rule, the act only fixes the spot where it should be carried into effect. The act is, therefore, not repealable. The Constitution does not give a power to fix upon two spots, but upon one spot. He thought it necessary to make this remark, lest he might be supposed to countenance the opinion he combated. It had been remarked that it would be in some degree degrading to the United States to borrow money on the credit of lots; he thought differently, and showed that it was a common thing in Governments to borrow money on different funds. It had been wished to disconnect the Government from the business. Whilst Government guaranteed the loan, he said, it would make no difference whether the loan was bottomed on the lots or otherwise. The nature of the engagement was the same. The question was whether the House would agree to guarantee the loan or not.

Mr. SWANWICK explained what he had said on the nature of loans, justifying his remarks on the impolicy of going to Amsterdam to borrow money to complete a building for their Legislature to meet in.

Mr. VENABLE did not feel the delicacy of the member who spoke last, on the subject of borrowing money to carry into effect the present bill. He believed that gentleman was not disposed to give the assistance required; but he thought the majority of the House was in favor of pledging the lots. If this was the case, he should wish to supersede the present motion by striking out the first and second clauses, to substitute another in their place, and amend the third section; this will have the wished-for effect; the House may fill up the blanks as it pleases, and it will probably never hear of the subject again in a Legislative way, except in case of a final deficiency.

Mr. GILES hoped the amendment proposed would accommodate gentlemen who wished to disconnect the Government from the business. He, however, thought it a strong reason for Government's having something to do in the completion of the buildings, that it might have some control over the management of them. He had seen, and was acquainted with, the buildings carrying on in the Federal City. He thought the house erecting for the residence of the President was much too magnificent, much more so than

was intended. Every one thought so who saw it. But this was no reason for obstructing the progress of the business. He hoped the bill would be formed in a manner so as to meet the general sense of the House. Though he had objected to the grandeur of the house intended for the President, he would have the buildings for Congress erected on a grand scale, and fitted for the Representatives of a great and free people.

Mr. SEDGWICK said, he had seconded the motion, because it was in conformity to the original act. It undertakes only to guarantee the deficiency between what the lots sell for, and the sum to be borrowed. Thus far he was willing to guarantee, and thought this the most unobjectionable way of doing it.

Mr. SITGREAVES observed, that a member had said that it was uncandid to obstruct the committee in their endeavors to make the bill as perfect as possible. He said it was his design to oppose the bill in toto. There was, however, an objection to the present motion, which he thought it important to make. He said, if the lots were conveyed to Commissioners, there was no occasion for the Legislature to pass an act to enable them to borrow money; but he understood the conveyance had been made in trust; if so, these trusts could not be interfered with by the Legislature, they could not be altered. If they were conveyed to be sold, they cannot mortgage, nor can this House give them authority to do so. Even if the Commissioners could be enabled to mortgage, the one design is incompatible with the other. The idea of borrowing on mortgage is inconsistent with the sale of the lots.

Mr. DAYTON said, the conveyances were made in conformity to the original act for the use of the United States; of course it was necessary to authorize the Commissioners to make any loan; that authority must go from this House. The question, is, whether it is best to place the property in the hands of the PRESIDENT OF THE UNITED STATES, or let it remain in the hands of the Commissioners; he thought the former the best, as it would be in the power of the PRESIDENT so to manage the loan as that it might not interfere with any lien made for the use of Government. With respect to the objection respecting mortgages, it was the same which he had already made, and would be removed by the amendment.

Mr. SITGREAVES was not perfectly satisfied with respect to his objections, and wished the Committee to rise, as, before he gave a vote on the subject, he wished for further information.

After a few observations from Mr. GILES, Mr. HAVENS, Mr. BRENT, Mr. VENABLE, Mr. HILLHOUSE, Mr. NICHOLAS, and Mr. JEREMIAH SMITH, the Committee rose, and asked leave to sit again.

THURSDAY, February 25.

CONTESTED ELECTION.

Mr. SEDGWICK presented four different memorials from inhabitants of the second middle district, State of Massachusetts, complaining of the undue election of JOSEPH BRADLEY VARNUM, Esq.,

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and praying for an investigation into the matter.

Mr. VARNUM said, this business was perfectly new to him. He inquired the number of petitioners, and was informed that one memorial contained 36 names, another 12, another 23, and another 6. He moved that the memorials be referred to the Committee of Elections; which, being seconded, was agreed to.

LOAN TO THE CITY OF WASHINGTON.

The House resolved itself into a Committee of the Whole, on the bill authorizing a loan for the use of the City of Washington; and the motion being put for striking out the first and second sections, in order to introduce another in their place, it was carried—42 against 32.

The third section being read,

Mr. VENABLE moved an amendment, making the lots an appropriated fund for the repayment of the loan.

Mr. JEREMIAH SMITH thought this amendment would not answer the purpose. By it they appropriate property over which they have not absolute control. He said the fee simple of the property was in the hands of Trustees or Commissioners; that they have a right to sell, and can make good deeds. There were general words, indeed, in the trust designating the use; yet if these Trustees were not to appropriate the money to the completion of the public buildings, the titles which they had given to the property sold would not be injured. There was no way, he said, in which the United States could have an absolute sway over the property, but by a conveyance of it to some person for that purpose. For if the Commissioners can make a good title, they had no assurance that they might not sell the lots, and the United States be obliged to make good the loan. The United States should, therefore, have a control over the property before the loan be guaranteed. He thought the amendment did not go far enough. The lots should be conveyed to the PRESIDENT, as a fund to answer the guarantee, which he should have the power of selling, whenever he pleased to reimburse the loan. Any bill which did not give security to the United States, he could not agree to.

Mr. VENABLE said, the gentleman last up had mistaken the ground on which this property was held. He asserted that the Commissioners were subject to the control of the PRESIDENT in the sale of the property, and that they could not act without him. The conveyance to the Commissioners was only a conveyance in trust. They now come forward to request the United States to authorize them to borrow money, which, if they borrow, they must take up under the control of the PRESIDENT. The Commissioners, it was true, might abuse their trust, but if they did, they are answerable; nor will the abuse of their trust affect the title of lots sold according to the powers placed in them. The amendment, he said, would not at all alter the ground of the original act.

Mr. JEREMIAH SMITH said, the deed of conveyance to the Commissioners was not a deed of trust, and that the United States had no property

in the lots. He read some clauses of the act to prove his assertion.

Mr. DWIGHT FOSTER wished to hear the deed referred to read. [It was read.]

Mr. GILES said, the amendment which had been introduced into the bill, permits the property to remain in the hands of the Commissioners; the bill, as brought in, proposed to convey the property to the PRESIDENT. Objection was made to the bill in its original form, because it connected Government in the business. He thought the Government no more concerned by directing the PRESIDENT to have the legal, than his having the equitable, right to the property. All Government does is to guarantee the deficiency. The only difference between the two plans is, the difference betwixt the responsibility of the PRESIDENT and the responsibility of the Commissioners. As to the objection that purchasers would not be ready to hold property sold by the Commissioners, it had no weight; the guarantee would satisfy every one. He had agreed to the amendment, but if gentlemen thought it material that a conveyance should be made from the Commissioners to the PRESIDENT, he should not object to it. He wished the bill to be so formed, as to meet general approbation.

Mr. NICHOLAS believed it was always in the discretion of the Commissioners to apply the money as they pleased; but they cannot make a title to any property without the consent of the PRESIDENT OF THE UNITED STATES. He must be as much a party as if the lots were vested in him, and no purchaser who had not the assent of the PRESIDENT, has a legal title. Government would not have accepted of the grant on other terms.

Mr. HAVENS thought there was a considerable difference betwixt the original act and the deed which had been read. He wished to know the reason of it.

Mr. DAYTON said, that he had not intended to have troubled the House again on this subject; but what had fallen from the gentleman from New Hampshire had alarmed him. That gentleman had said that the Commissioners had an absolute title of the property; that they could sell it as they pleased; so that the United States had no right to remove the Commissioners, no right to the buildings, nor any right to appropriate the money arising from the sale of lots. If this were the case, he would never vote for the bill. It has been also said, that the Commissioners may refuse to sell if they choose; were this so, it would furnish another reason for withholding his vote. He hoped the title of the property would be better understood, before the bill was further discussed. Three different gentlemen held different opinions on the subject, and he was at a loss to decide on the matter.

Mr. HILLHOUSE thought the amendment did not go far enough; he did not think it sufficiently secured the United States. He would add a proviso, "that, before the lots were conveyed to the PRESIDENT, no money should be borrowed." He should wish also to have an additional amendment, in order to obviate the objections mention-

ed by the member from New Jersey, of the Commissioners having absolute power over the lots; and, when the loan is repaid, if any lots remain, they might be reconveyed to the Commissioners. If this amendment was agreed to, the PRESIDENT would have full power over the lots.

Mr. BRENT said, in order to convince the member from New York that the deed which had been read was in conformity to the act, he would read some clauses of the act. No particular mode of making the conveyance is pointed out, but it is left to the PRESIDENT of the UNITED STATES to make such a conveyance as he thought best. This conveyance fixes the fee simple of the property in the hands of the Commissioners, and obliges them to sell publicly, subject to the consent of the PRESIDENT, and that the money arising from the sale shall be appropriated to the erecting of buildings for Congress. The amendment is, therefore, no more than we ought to agree to.

With respect to what had fallen from a member from New Hampshire, that we were legislating on a subject on which we had no right, Mr. B. said they had a right to designate the disposition of the money, when it shall be received by the PRESIDENT of the UNITED STATES. By this amendment, it is said, the Commissioners may dispose of the property as they please; but the consent of the PRESIDENT of the UNITED STATES is necessary before any sale can be legitimately made. He could not, therefore, see any ground for the fears of gentlemen on this head.

Mr. SWIFT moved that the Committee rise. They were come, he said, to an important question on the title of the land. Some members say it is in the PRESIDENT, others, in the Commissioners, who have sold lots without the consent of the PRESIDENT. The House had heard the deed read, but it was a matter that could not be determined upon in a moment; it required to be examined. If the motion for the Committee's rising was carried, he should wish the bill to be referred back to a select committee.

Mr. BRENT hoped the Committee would not rise, but proceed with the consideration of the bill. He could not help thinking that the procrastination of this business did not arise so much from any doubts entertained on the subject of the title, as from a dislike to the bill itself.

Mr. CRABB said, the House had already deliberated a long time upon this business. If the bill contains a guarantee, that is all that is wanted. If the House will not agree to this, let the bill be thrown out at once. Clauses had been objected to which were immaterial. If gentlemen would show themselves in their proper colors, they might be met on proper grounds; at present they could not. A gentleman had said yesterday he blushed on account of the magnificence displayed in the public buildings carrying on in the Federal City, and hinted that no gift had been made to Government by certain States; but, he said, the public buildings would be an honor to the country; and, if he will refer to the Journals of the Legislatures of Virginia and Maryland, he will find that each of those States have

granted a considerable sum in money towards erecting the public buildings.

Mr. NICHOLAS wished the Committee to rise, in order to reconsider the business.

Mr. GILES said, there was a propriety in referring the bill to a select committee, as he thought they might be able to bring in a bill which would meet the wishes of the House.

The Committee rose, and the House refused it leave to sit again. The bill was then agreed to be recommitted, and that four additional members be added to the select committee to whom it was referred; and Mr. BRENT wishing to decline to act again on the committee, a member was voted for in his stead.

AMERICAN SEAMEN.

The report of the committee to whom was referred the resolution which passed the House on Friday, respecting the case of American seamen, was read a first and second time, and ordered to be committed to a Committee of the Whole on Monday.

The report states, that the facts relative to the sufferings of American seamen are too notorious to need reference to particular cases, and recommends a plan to be adopted to afford them relief; the principal part of which is that two agents shall be appointed by the United States, one to be sent over to England, and the other to the West Indies, to inquire into the situation of American seamen; to release such as they are able to release, afford relief to others, and learn the number of citizens who have been illegally seized; and that proper offices be opened to which all American seamen may apply to obtain certificates of citizenship.

LOAN TO THE CITY OF WASHINGTON.

Mr. DEARBORN moved a resolution to the following effect: "That the committee to whom is referred the bill authorizing a loan for the use of the City of Washington, be instructed to inquire whether any, and what, alterations ought to be made in the plans of the buildings intended for public use at the permanent Seat of Government of the United States, and make their report thereon."

Mr. MURRAY hoped the resolution would not be agreed to. The buildings had progressed towards such a state of finishing as to put it out of the power of any one, without great waste of money, to make alterations in them. And, though gentlemen may see faults in the plans, or think the buildings too magnificent, yet, as they had no concern in originating these plans, and, as the plans or errors are out of the reach of amendment, what reason is there for the inquiry? No money is asked, either of this House or of the United States; and it would be, therefore, improper to undo what has been done by two States who have made large donations for this purpose. What, then, can be the object of this motion? Nothing can be done, except gentlemen can point to any error which can be rectified. And though he admitted these buildings were the property of the United States, yet there was a delicacy in in-

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terfering in a matter in which they had not expended any money. He hoped, therefore, the resolution would not be agreed to.

Mr. DEARBORN said, that if the committee found, upon due examination, that no alteration can be made with propriety in the public buildings alluded to, they would report accordingly. How these facts were it was at present uncertain. As to the question of delicacy, he said, if the business had gone on without application to them, it would have been improper to have interfered in it; but, as the assistance of Government was called for, he thought it became that House to make the proposed inquiry. If the plan was such as it would be impolitic to carry into effect, it would influence his vote on the subject; but if the plan was such as he approved, it would be otherwise. There could be no danger in making the inquiry.

Mr. CRAB thought the proposed inquiry very improper. The law, said he, has appointed the PRESIDENT of the UNITED STATES to manage this business. Suppose the inquiry were to take place, and the buildings are found on too large a scale, shall they be pulled down, and smaller ones erected? If gentlemen were indulged, where would their inquiries end? He read the Message of the PRESIDENT to the House on the subject, wherein he says the sale of the lots will be equal to the expense of the buildings. It would be well, he said, if gentlemen would gain a little more information on subjects, before they brought them forward. If this had been the case, he thought much of the debate which had occupied the House for several days might have been saved.

Mr. DEARBORN acknowledged he lacked information, but that he had attempted, without effect, to gain it from his accuser.

Mr. BOURNE did not see why the proposed resolution should not be agreed to. Considerable information had come out in the course of the debate on the subject of the public buildings, and more might be got. It appeared to be a subject of doubt whether the House have or have not the power of control over these buildings. The question is worth inquiry. If the committee thought an interference necessary, their report would be so framed. He believed much opposition to the bill for authorizing the loan had arisen from objections to the extravagant style of building employed in the Federal City.

Mr. MURRAY said, he did not think the resolution was worded as if it was intended to gain information. He said the public buildings had been erected under the control of the PRESIDENT, and according to plans, as he understood, first submitted to him. And, if he has acted legally and consistently, if he has not exceeded the powers given him, why should the House interfere in the business? He believed the trust had been performed in the best manner. If the object of the resolution had been to learn how far certain buildings were progressed, or other information, he should not have objected to it; but could not agree to it in its present form.

Mr. THATCHER wished to know if the commit-

tee found the buildings too large, they were to divide them, or cut off an end, or, if not large enough, enlarge them? The resolution appeared to give a greater latitude to the committee than he thought the mover intended. It would be difficult to form a judgment of the buildings unless they were in possession of the original plans.

Mr. GILES thought the committee should report facts to the House, and not their opinion, relative to the state of the public buildings at the permanent Seat of Government. He had a resolution, which he thought might be substituted in place of the one proposed.

Mr. DEARBORN said, the resolution just read did not go to the length he wished. He wished that if the house erecting for the PRESIDENT should be thought too large that it might be made the Capitol, and erect another in its stead, and perhaps on another piece of ground.

Mr. SWANWICK said, the House had been called on to guarantee a loan to complete the public buildings in the Federal City. It was proper, therefore, that they should examine what had been done and what remains to be done. This subject has been before the House several days. New facts have been developed, and it was necessary to make inquiry in order to mature the business. A gentleman had said the subject was already in very high and respectable hands; notwithstanding this, he had himself been upon the spot, and could say he had found plans had been frequently changed. Seeing, therefore, that the plan was not at first perfect, he saw no impropriety in vesting the inquiry in a committee. How can this House go into a guarantee without knowing the necessary facts relative to these buildings? The House will not be bound by the committee's report, but will act as they please. Many alterations may be made in what is not finished. This House, before now, has not interfered in the subject; but now the state of the case is altered—Government is called upon for a guarantee, and information is necessary.

Mr. GILES said, if the object of the resolution had been information, he should not have objected to it. He would ask the gentleman from Pennsylvania what effect the opinion of the select committee would have on him? He wished the gentleman who proposed the resolution would consent to have the one he had read substituted in its place, and suffer the opinion to be the result of facts.

Mr. GALLATIN said, it did not appear to him that the resolution proposed to be substituted in place of the one moved, included all the ideas of the mover. He supposed the committee would not only report their opinion, but the facts on which it was grounded. He saw no impropriety in incorporating both resolutions into one. The objections against the motion are not well-founded. It is stated that we have no control over the buildings, because the land was given by certain States, and because they have been erected under the direction of the PRESIDENT. But, though grants have been made by individuals, the whole of the value results from the Government being

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fixed there. The discretionary power was exclusively vested in the PRESIDENT. It was subject to one check; it not only gave him the power, but made it his duty to attend to it. The grants not proving sufficient, a demand is made either to give money or guarantee a loan. Money being asked, another check must be introduced, to say how far these buildings shall go. This House has a right to inquire not only the past expense, but what shall be expended in future. This resolution is, therefore, proper. He was a friend to the principle of the bill itself; he did not think any great change could be effected in the plans of the buildings; but it was necessary they should have all the information possible.

Mr. CORT hoped the motion would prevail; many of the objections to the bill guaranteeing the loan having arisen from a dislike to the extravagance of the buildings.

Mr. MURRAY said, it evidently appeared to him that, in consequence of an application to that House for a guarantee, which had been greatly perplexed, under shelter of objections and inquiries, labors were making rather to destroy than to finish the buildings. Gentlemen seemed inclined to destroy the power intrusted to the Commissioners, and with it the property of the city; and, after having taken down the present buildings, and fixed upon a different situation for them, they may proceed to new model the city, narrow the streets, &c., and, by doing this, violate the rights of private property. No man, if this intermeddling system prevails, can be safe; and, as soon as this principle is understood, it will shake the property of the place. It is a city in speculation, and one false step may prostrate it.

Mr. CRABB again strenuously opposed the resolution.

Mr. COOPER was opposed to the resolution. He said all they had to do in the business was to guarantee the loan, and get the security of the lots for the money.

Mr. SEDGWICK said, he had all along viewed the subject in one point of view. Accommodations were to be made for Government without any expense to the public. The Commissioners come forward and say they have property to do this, but that they cannot immediately procure money so as to complete the buildings in time, and ask for a guarantee to a loan. It was extraordinary, he said, for them to say the buildings were too magnificent, too commodious, too expensive. The better the buildings are the more honor it will be to those who erected them, and to those who occupy them. If they were too small and incommodious, there would be real ground of complaint. If that House undertook to say what should be the size of the buildings, they should do what they had no right to do. And, even if they were more splendid than European palaces, they should be grateful for them. The resolution was put and carried, 42 against 38.

Mr. GILES's resolution being called for, it was put and carried, to the following effect:

"That the said committee shall be instructed to inquire into the state of the Public Buildings at the per-

manent Seat of Government of the United States, into the expense already incurred in erecting, and the probable expense of completing the same."

And then the House adjourned.

FRIDAY, February 26.

Mr. W. SMITH wished to call up a resolution laid on the table some days ago, to appoint a committee to bring in a bill for repealing the last section of the act for building and equipping a Naval Armament. He wished the sense of the House to be taken, whether, since a peace had been concluded with the Dey of Algiers, the frigates which were now building should or should not be completed. The resolution was read and ordered to be committed to a Committee of the Whole to whom was referred the subject of the frigates.

The order of the day being called for on the bill for relief in certain cases, for a limited time, of invalid registers of ships, a division took place; 32 members for the taking up the subject, and 31 against it. The House accordingly resolved itself into a Committee of the Whole on the said bill, and having gone through it, without any other amendment than allowing it a duration of ninety instead of sixty days, the Committee rose, and the bill having gone through the House, it was ordered to be engrossed for a third reading on Monday.

INDIAN TRADING HOUSES.

The order of the day being taken up on the report of the select committee to whom was referred the act, with the amendments made by the Senate, for establishing trading houses with the Indian tribes, and the amendments being read,

Mr. JEREMIAH SMITH thought the amendments very essential, as they changed the principle of the bill. He believed, they had not been printed, and as it was very improper to discuss their merits until opportunity was given to examine them, he should move that the subject be postponed until Wednesday. The Committee had recommended all the amendments to be rejected, except one; but as the House might have full information on the subject, he should wish the bill to be printed with the amendments and the report of the Committee. Agreed to.

COMPENSATION TO MEMBERS.

Mr. GILES moved that the bill for allowing compensation to the members of the Senate and House of Representatives, and certain officers of both Houses, be taken up, which being agreed to, the House resolved itself into a Committee of the Whole; and the bill being read,

Mr. SEDGWICK moved to strike out one of the clauses of the bill as unnecessary, which brought some observations from Mr. W. LYMAN and Mr. GOODHUE, against the propriety of striking out, and Mr. SEDGWICK withdrew his motion.

Mr. SWIFT wished to strike out the words making the Speaker a greater allowance than other members.

Mr. GILES thought a larger allowance ought to be made to the Speaker than to other members, as his duty was double that of any other mem-

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ber; but, if gentlemen wished to do away the incidental expenses of the office, he had no objection.

Mr. SWIFT consented to vary his motion according to the ideas of the member from Virginia. If the Speaker had more duty to perform than other members, he should be willing to make him a greater allowance, but he doubted it.

Mr. W. SMITH hoped no alteration would be made in the allowance heretofore made; he saw no reason for it.

Mr. GOODHUE said, he voted against the additional pay allowed the Speaker when the act first passed, as he saw no necessity for the Speaker to give dinners to the members of that House; but though he objected to this, he was willing to allow him recompense for his additional services. He hoped, however, the gentleman who now so ably filled the office, would not consider any thing said on this subject as alluding personally to him.

Mr. SEDGWICK was willing to give the money to the Speaker which had heretofore been paid him, and for the same purpose, although he and his colleagues were both against the measure when it originally passed.

Mr. DARTON wished the business might be discussed without reference to him personally. Indeed he believed he should not be materially affected by any regulations which might be agreed to, as, if he might judge by his present feelings, his health would not permit him to remain in the Chair after this session.

Mr. GILES was confident that no one meant to hurt the feelings of the gentleman who now filled the Chair. The member from Massachusetts had said, when the measure passed, he was against it, but now he was in favor of it. He could see no ground for this change of sentiment. Mr. G. said, he was against the money being paid for incidental expenses, but not against making the Speaker ample allowance for his services.

Mr. KITCHELL was also for striking out the words, but for making ample compensation to the Speaker.

Mr. BOURNE did not suppose that the incidental expenses of the Speaker were confined to the dinners which he gave them; he was put to more expense in receiving company than other members. He did not think six dollars a day too much for this.

Mr. MADISON said, it was customary in all the State Governments to make the Speaker a greater allowance than other members: his services were far greater; they were uninterrupted. Besides, it was necessary to do so to invite men of talents to accept of the office; and every one knew the advantages arising from having a man of talents as Speaker. Without inquiring whether the compensation was too large or too small, he doubted whether it was Constitutional to make any alteration in it which might affect the present Speaker. To support his opinions he read a clause of the Constitution.

Mr. HILLHOUSE was of opinion that nothing in the Constitution extended to the present question. He hoped they should agree to strike out the words alluded to, as the sooner the practice of

feasting was abolished the better. If members wished to form social acquaintance, it was far preferable to visit each other at their lodgings. He said, this was the first time the law had come under review since it had passed, and it was proper to have the matter settled. He wished to allow a reasonable sum for the services of the Speaker but no more. He did not think there was any weight in the observation, that a large compensation was necessary to induce men of talents to accept of the Chair—he thought the honor was a sufficient inducement.

Mr. WILLIAMS said there was no office appertaining to the Speaker which included expence; the words ought therefore to be struck out.

Mr. PAGE was in favor of striking out the words, as he did not understand their meaning, but in favor of keeping the allowance of the Speaker the same as usual. The Speaker, he said, ought to be placed in an independent situation, by a handsome salary. His duties were fourfold to those of any other member. Indeed, said he, nothing but a sense of duty could induce a man to undertake such an office.

Mr. GILES said, if it was agreed to strike out the words *for the incidental expenses of his office*, he should move to introduce in their place, "*on account of extra services annexed to his office.*"

Mr. JEREMIAH SMITH liked the words proposed better than those in the bill, but did not think it of the importance it was made.

The motion for striking out was put and carried.

Mr. GILES then proposed his motion.

Mr. HILLHOUSE was against the introduction of these words.

Mr. VARNUM hoped the motion would prevail. The services of the Speaker are extraordinary and laborious. The State Legislatures, he said, always allowed their Speaker double the pay of other members.

Mr. MURRAY hoped the words would not obtain. He considered the Speakership of that House as a very elevated situation. In certain contingencies, he believed he was the Chief Executive of the United States. He thought the calculation of pay too mechanical. The dignity of the office was sufficient without extraordinary compensation; the duties of it were well known.

The question was put, and negatived.

Mr. GILES moved to fill up the blank for the daily allowance of members of the Senate with six dollars.

Mr. PAGE proposed seven; which, after a few observations from Mr. WILLIAMS in favor of six, the sense of the House was taken which was in favor of six dollars—only twenty-one members rising in favor of seven.

The allowance of the Speaker again coming into consideration, Mr. SWIFT wished an inquiry might be made into the duties of the office. It was his opinion that many members upon committees performed greater services than he; and if the Speaker had an extra allowance, they ought to have an extra allowance also. Some gentlemen thought, on the score of dignity, a high salary

ought to be paid. He thought differently. Can it be supposed it would be necessary, said he, to give any member of this House double to accept of the office? No such thing. Being now discharged from any obligation to treat members, he could not agree to allow him the usual sum. He should not object to two or three dollars a day extra, but no more.

Mr. GILES thought the duty of the Speaker three times as arduous as that of any other member of the House.

Mr. CRABB voted for striking out the words, but he was not for diminishing the salary of the Speaker.

The motion for the usual allowance was put and carried, and the other blanks of the bill were filled up with the same sums as heretofore allowed to the different officers. The Committee rose; the bill then went through the House, and was ordered to be engrossed and read a third time on Monday.

INTERNAL REVENUE.

Mr. W. SMITH moved the order of the day on the report of the Committee of Ways and Means on the Internal Revenue.

Mr. GILES objected to taking up this business until they received the information which had been asked for from the Secretary of the Treasury.

The sense of the House being taken, there appeared for consideration 86, against it 83. The House having resolved itself into a Committee of the Whole—

Mr. S. SMITH moved that the Committee rise, as it was not in possession of the necessary information to go into the proposed inquiry. Near twelve months had elapsed, he said, since the Secretary of the Treasury was applied to for the accounts now wanted. The resolutions which the Committee of Ways and Means report, go to new-modify the revenue laws. They may have had some information to enable them to form a judgment upon the subject which the House had not. The House cannot agree to the proposed change until they have information on the subject. If the officer of the Treasury had obeyed the order of that House given last session, they might have proceeded in the business, but at present they could not.

Mr. W. SMITH had no objection to the Committee's rising. The Committee of Ways and Means, he said, had obtained information from the Commissioner of the Revenue on the subject, but that they did not think it proper to lay that information before the House, as they understood this Commissioner was preparing a more perfect account for the House. The report, he said, did not go to change the method of collecting the revenue, it went only to certain changes which they thought would materially improve the present plan. If the Committee was of the same opinion, the report might be referred back; but if the Committee wished to wait for further information, he should not object to its doing so.

Mr. GALLATIN said, the gentleman from Mary-

land was right in the principle he had laid down. No doubt the Committee of Ways and Means ought not only to give their opinion, but all the facts on which it rests. On this subject there would have been no hesitation, but for one thing. The Commissioner of the Revenue seems to be the proper officer to make the report to this House. A conference took place on the subject betwixt him and the Committee of Ways and Means. He said he had taken all the steps in his power to get the information wanted, but that it was not yet complete; and that, as he was inclined to make the report as perfect as possible, he wished that it might be postponed until he could complete it; but it was desired he would, in the mean time give the best information he could to the Committee of Ways and Means. He did so. Upon these documents the committee have acted.

The House may, therefore, either wait till the report comes from the Commissioner, or they may direct the committee to give an extract from the information before them. He wished the Committee to rise, until the necessary information was obtained.

Mr. GILES gave some account of the progress of this inquiry into the state of the revenue, and complained of the length of time taken to give the information required on the subject. Until this was before the House, he doubted whether any gentleman was even prepared to speak as to the proportion that the expense of collecting bore to the revenue. He hoped that the Committee would therefore rise.

Mr. HILLHOUSE hoped the proper officer would be called upon for the necessary information, and not the Committee of Ways and Means.

The Committee having rose, Mr. GILES proposed to the House a resolution to the following effect, which, after a number of observations from different members on its propriety, was agreed to.

Resolved, That the Secretary of the Treasury be directed to furnish this House with such a statement of the internal revenue of the United States as can be prepared in pursuance of a resolution of the 2d March, 1795.

REFUNDING DUTIES.

The order of the day being called for on a bill for affording relief to Jose Roiz Silva, in returning him an excess of duty paid on a cargo of wine, also on a bill for the relief of Israel Loring, allowing him a certain drawback on certain indigo; they went through the Committee of the Whole, and through the House without amendment, and were ordered to be engrossed and read a third time on Monday.

A communication was received from the Secretary of the Treasury, enclosing an account of the expenditures for the quarter closing the 31st December.

BENJAMIN TITCOMB.

The report of the Committee of Claims on the petition of Benjamin Titcomb, a Colonel in the late war, was read; they lament that no general relief can be granted to him, and that to grant special

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relief might be attended with bad consequences, and therefore recommend that he have leave to withdraw his petition.

Mr. RUTHERFORD spoke in favor of the report of the petitioner.

Mr. W. LYMAN hoped a provision would be made for this gentleman, and some others in a similar situation. There ought to be a distinction made, he said, between wounded officers and those who were fortunate enough to escape without wounds. He hoped the report would not be agreed to.

Mr. SHERBURNE thought this petitioner might be provided for without infringement on the laws which militate against his claim. Indeed, he said, it would be most disgraceful to the country to turn a deaf ear to such a sufferer. He wished the Committee to rise, as he would, on a future day, bring forward the discussion whether this petitioner is not, as a wounded officer, entitled to a pension, and, as serving to the end of the war, to half-pay.

The Committee now rose, and the House adjourned.

MONDAY, February 29.

Mr. SWANWICK presented a petition from the manufacturers of hats in Philadelphia, together with several others from manufacturers of hats in different parts of the Union, praying that an additional duty may be laid on hats imported from Europe, in order to encourage the American manufacture; which were severally referred to the Committee of Commerce and Manufactures.

The bill for allowing compensation to members of the Senate and members of the House of Representatives, and certain officers of both Houses; also the bill for relief for a limited time, in certain cases, of invalid registers of ships, were read a third time and passed without a division.

The bill for the relief of Jose Roiz Silva, and the bill for the relief of Israel Loring, were read a third time and passed; but a division of the House being called for on each, for the former there stood up 51 members in favor of it—the negatives were not taken; for the latter there were 43 in favor of its passing, and 27 against it.

IMPRESSMENT OF AMERICAN SEAMEN.

Mr. LIVINGSTON wished the order of the day to be postponed, in order to take up the report of the committee to whom was referred the resolution he had laid on the table respecting the impressment of American seamen; which being agreed to, the House went into a Committee of the Whole.

Mr. HARPER had hoped when this resolution was committed to a select committee, some statements would have been brought forward, some facts produced, upon which to found the proposed inquiry. The committee have reported that they do not think it necessary to adduce any particular instances in which American seamen have been impressed by foreign nations—the facts, they alleged, are too notorious to require particularizing. He could not suppose these gentlemen would be-

lieve that that House could proceed to legislate on uncertain newspaper reports. He trusted they would afford some proof who, what number, when, and where American seamen have been impressed. Until this was done, he should doubt the fact. He was heard, he believed, by Representatives from every port in the United States, and if the fact was so notorious as to need no further evidence, he doubted not some of these gentlemen would be able to give some account of the business.

If the facts were established, Mr. HARPER believed there would be but one opinion on the propriety of granting relief; but before they proceeded farther, some information was necessary respecting the existence of this abuse. He had applied to the office of the Secretary of State, and to other offices likely to afford information on the subject, but he found no instance of impressment complained of in which redress had not been given. But, if any such instances did exist, in which relief has been applied for and not obtained, some of the gentlemen from some of the seaports will be able to mention them. If not, he hoped the Committee would rise, and recommit the report.

Mr. LIVINGSTON said, the present measure was intended to afford relief to such of their distressed fellow-citizens as had been illegally seized on the high seas. The gentleman, he said, who brings forward objections to the proposed inquiry was in his place when the resolution upon which the report of the committee is founded passed unanimously. Why did he not then come forward? [Mr. HARPER said he was not in the House at the time.] The resolution does not direct the committee to inquire into facts; they were considered as notorious, and nothing seemed necessary but to fix upon the best mode of furnishing relief. The Legislature of the United States have formerly had evidence, and they have acted upon it. If the gentleman will look into the proceedings of the last session of Congress, he will find a considerable sum granted to Mr. Cutting, for the relief of this distressed body of men. Some he relieved, others he did not. When the dignity of the nation, said he, is insulted, in the persons of our fellow-citizens, it is necessary at least to make inquiry into their sufferings.

A remark had fallen, Mr. L. said, from the member from South Carolina, which he wished to notice. He said he had applied to the office of the Secretary of State, and found there no complaint which had not been redressed. Now, he had waited upon the Secretary of State, as Chairman of the committee, in vain for information on this subject. He informed him that he could not give him the evidence which it appears he has given to the member from South Carolina. How, he wished to know, happened it that a member who opposes the inquiry in question should be furnished with that information which is denied to a member who supports it?

It is said, added Mr. L., that we are attempting to legislate without evidence. Though no facts are at present before the House, it is notorious that numerous instances have been made known to

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Government, and the present measure is meant to inquire into the cases of sufferers, and remedy them as far as possible. It is admitted by the member from South Carolina that facts have existed, but that they have been removed. If these grievances, then, said he, have existed, let us prevent them in future. Let us not wait till it is too late to grant relief. The men, said he, who suffer by the depredations complained of, are at a great distance from their homes and friends in foreign ports, dragged on board tenders, and made to experience every hardship which can be conceived; and now, when a mode is proposed for the relief of these distressed citizens, evidence is called for! If one of these men is confined in the East Indies, can evidence of his bondage be expected to be given here? Such hardships have existed, and it was their business to prevent them from again occurring. He hoped, therefore, the Committee would not rise, as he trusted there was sufficient evidence on which to ground the inquiry.

Mr. HARPER wished to remark, on what had fallen from the member from New York, on the Secretary of State's refusing information to certain members and giving it to others. He applied to the office of the Secretary of State, to learn whether there were any documents there to support the proposed inquiry, and was informed there were only two cases; in one of which application was made to the British Government. Four persons were said to have been impressed; but, on inquiry it appeared that two of them were British subjects, and the other two had enlisted into the service. The other complaint came to the office when the Secretary of State was much engaged in other concerns, but he believed relief was granted. This, he said, was verbal information. He had applied for written documents on the subject, and doubted not he should receive them as soon as other business would permit.

Mr. LIVINGSTON said, some observations had been made by him which implicated the Secretary of State. Those observations, he said, arose from the manner in which the member from South Carolina had mentioned his having received information from the Secretary of State's office. He had said that he had learnt from the office certain particulars which he himself had not been able to learn. If the gentleman had explained the manner in which he had gained the information at first, it would have prevented him from making a charge which appeared to him, at the time, but too well founded.

Mr. BOURNE said, the member from New York must know that the Secretary of State had said, that he would prepare the information wanted as soon as other business would give him time.

Mr. LIVINGSTON explained, and said that he had not complained that the information he applied for was refused, but delayed.

Mr. SWANWICK said, the member from South Carolina had called for information: he conceived no particular information necessary. He could mention an instance in which he had immediate concern. A vessel of his, going to the West Indies, had all her hands taken out of her, and obliged

to work the guns of the English frigate; and on their expostulating, that though they were prisoners, they did not wish to work the guns, they were threatened with whipping; and the Captain was told, if he interfered, he should be whipped and sent home to England in irons. If he had thought facts were wanting, by a single advertisement in one of the Philadelphia papers they would have been overpowered with facts. But, if he had done so, he supposed he should have been charged with raising dissatisfaction in the minds of the people, or with encouraging Jacobinical principles: he therefore did not do it. But, without going out of the walls of the House, he said, he found evidence sufficient. He read an extract from the communication of the Secretary of State, dated March 2, 1794, in which were mentioned the representations made by sundry merchants of Philadelphia (of whom he was one) respecting the impressments of American seamen. This document was thought sufficiently strong, to make an article of instruction to Mr. Jay in his late negotiation; but, owing to certain difficulties, no specific agreement was entered into by him for their relief.

The plan now before the House, said Mr. S., is intended to remedy the difficulties which have been urged as obstacles in this business, by opening registers in which to enter every American seaman, by which may be known, at any time, the number of seamen belonging to the United States, and by means of which every such seamen would be possessed of a certificate of his citizenship.

The object of the Committee, said Mr. S., is that the PRESIDENT OF THE UNITED STATES shall send agents to England and the West Indies, in order to afford relief to any American citizens who may have been illegally seized. Every one knows, said he, what has been felt on account of American seamen carried into Algiers. No evidence was required with respect to their numbers, or how they were employed. The united exertions of the whole American people seemed to cry out for their release, and the business at length has been effected. And let us not, said he, attend to our distressed citizens in one part, but in all parts of the world. Let us not, he said, be too nice about evidence. These men are generally ignorant, and cannot give the necessary information; he thought, however, they had information sufficient for legislating upon in the present case. He hoped, therefore, the report would not be recommitted, until the committee had discussed the subject.

Mr. TRACY believed that every member in that House felt the propriety of extending the benefit of the laws to every class of citizens, and to none more than to American seamen. Some members seemed to suppose that the distresses of American seamen have been looked upon with apathy; but if due attention had been paid to the efforts of Government, it would have been seen that they had always been duly attended to. It was well known that great difficulties arose when it was attempted to distinguish between English and American seamen. This has been the reason why ample regulations have not always taken place. He hoped

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the Government would be popular, and that the new members in the House would assist the old ones to render it more and more so; but thought the Government ought not to be charged with apathy without giving due attention to what Government had done.

Mr. T. proceeded to take notice of the resolutions proposed in the report. He inquired what good the agent to be sent to Great Britain would do? Are their seamen, said he, employed at but one place? Had not the United States Consuls at every port, and can they not do the business? He wished for information on the subject. A great part of the seamen were foreigners, he said, and it would be very difficult to separate them. If the plan proposed, however, can be made to appear to be beneficial, he would heartily join in effecting the desired relief to the class of citizens alluded to.

Mr. GOODHUE said, the member from New York, on bringing forward this subject, had charged Government with looking upon the distresses of American seamen with apathy, and blushed on account of its conduct towards them. He represented, he believed, twenty times the number of American seamen that that gentleman represented. He was himself, indeed, formerly a seaman; yet he did not believe the evil complained of existed to any alarming degree. Mr. CUTTING, it had been said, had relieved many seamen; that was in the year 1790. Last Summer, the British took many vessels bound to France, but they did not take the crews. There were some instances, he said, in which seamen had been impressed, and he should be in favor of every necessary step to afford them relief. But no obloquy should be thrown on the Government. Neither does the evil exist to the extent it might have been supposed when the subject was brought forward. A member from Pennsylvania had mentioned a particular instance: he could mention a particular instance of a French officer who had so ill-treated some American seamen as to be cashiered, on a representation being made to the French Government.

Mr. DAYTON (the Speaker) said, that he had not expected an opposition to the resolution under consideration on the ground of fact; that he could not have supposed any member would have questioned the existence of the evils which the propositions were calculated to remedy. He entertained a belief that the impressments of American seamen, particularly on board of British ships of war, was a matter of too great notoriety to need any evidence at this time. But the member from South Carolina, who manifested the most zealous opposition to these measures, had admitted that there had existed instances of this sort: and as it must follow that what had once existed might again exist, it behooved Congress to make provisions tending to prevent, or at least most speedily and efficaciously to remedy, them.

Mr. D. declared, that he heartily approved the object of the resolution as originally proposed by the member from New York, and the general principles of the report founded thereon, as a question of humanity, and of great national policy. It was, however, with pain that he heard the worthy

mover draw into unfavorable question the conduct of the Secretary of State, and indulge himself in some severe reflections and imputations upon that officer. Mr. D. ascribed it to an irritability—and perhaps an honest irritability—upon this subject, so affecting and interesting to Americans. He ascribed it to a warmth of temper in which, in this particular case, the cooler judgment of that gentleman, and the knowledge of the real character and conduct of the Secretary of State, had no agency or influence. The expressions which had been uttered by some gentlemen, in the course of the discussion, tending to charge our Government with a criminal apathy and indifference towards this description of citizens, did by no means, Mr. D. said, meet with his approbation. He believed them to be unfounded; for he was persuaded that whenever it was informed, it did whatever it could to relieve the seamen of the United States, and to obtain for those who unfortunately needed it, complete redress. Having said thus much in vindication of the conduct of the Government, he returned to the resolution itself, and declared himself its advocate. It contained, neither in its words nor spirit, any imputation upon the Executive, of the sort hinted at. The question was, simply, whether the seamen of America should, when impressed by foreigners, wait the slow process of a representation of their situation to the Government in the American metropolis, or be furnished with a protector in every country, and almost in every port.

In the former case, every one must perceive it more than possible, that owing to distance and the time which must consequently be expended in the communication to and remonstrance from our Government, an American citizen might be impressed and compelled to serve months—perhaps years—in a service which he detested, and possibly forced to apply the match to cannon charged with balls, aimed for the destruction of his friends.

Mr. D. said, he rose principally to inquire whether the plan proposed by the committee was the most effectual one. He wished to hear from the Chairman, or some other member, whether they had attended to the circumstance of our having Consuls in many ports, and had weighed the propriety of investing them with the powers in question. These officers appeared, at first view, the most fit and convenient for the purpose, on account of their number, their situation, and the saving of expense.

Mr. BOURNE said it appeared, on inquiry, that the United States had no Consul in the West Indies, and that as Consuls received no salary for their services, it was thought best to appoint a person specially to undertake the business in question. He believed, however, that the duty ought to devolve on Consuls in Great Britain, as it is the duty of Consuls to relieve distressed seamen wherever they may be found. This may be done with much less expense and with more efficacy.

With regard to the information on the subject, Mr. B. said, it did not appear that any considerable number of seamen had been impressed lately, or since the negotiation of Mr. Jay. In that ne-

negotiation, it appears some difficulties were suggested, and no general regulation on the subject took place; but the English Minister assured Mr. Jay that fresh instructions should be given to the commanders of their vessels, and, in consequence, many complaints have not since arisen. There are not, he believed, at present, many American seamen in the British service—most of them being discharged; yet it is possible, from the many impressed some years ago, relief might be afforded by sending an agent to the West Indies. It was possible, he said, that American seamen on board vessels taken by Bermudians may still be detained, who might be relieved by this agent.

Mr. B. proposed to amend the resolution, by striking out that part of it which appoints an agent for Great Britain, and confine the sending of an agent to that part of the English possessions in the West Indies to which the greatest number of American vessels sail.

Mr. LIVINGSTON was pleased to see gentlemen concur in endeavoring to form a plan for the relief of American seamen. It has been asked why the Consuls were not intrusted with this business. The committee considered, that as the Consuls of the United States received no other recompense for their services than the dignity and consequence which their office gives them, they would not be likely to pay sufficient attention to a business of this kind. They considered the immense labor of Mr. Cutting to deliver the impressed American seamen. They supposed, therefore, if the duty were laid upon the Consuls, a salary should be annexed to their office; but as there is no Consul in the West Indies, a special agent should be appointed. In order to bring a view of the subject before the House, he would inquire how relief is to be afforded to a seaman who has been impressed? Suppose he is seized in London; he is sent down to Portsmouth. The agent must attend immediately—get certificates—pay fees of office—employ counsel, &c., to release a single seaman;—a trouble he believed no Consul would take. The committee supposed that the solemnity of commissioning an agent especially on the business would convince foreign Powers that they would no longer suffer the British, or others, to exercise that power over American seamen which they themselves could not exercise. It is to be hoped, also, that when the Government of Great Britain sees a step of this sort taken, she will give up the practice of seizing American seamen, and let them pass in quietness. If not, the agents employed could transmit to this country an account of what seamen were seized by them, and every particular respecting the same. This consideration influenced the committee, and he trusted it would influence the House.

Mr. LIVINGSTON next remarked on what had been said on the introduction of this business into the House. It was said that a young member had thrown obloquy on the Government. He had uttered nothing but facts; he had said that the distressed American seamen had for five years looked in vain for relief. The Government might have had prudential reasons for its conduct. He thought

it time, however, the subject was attended to. It was true he was young, but he was not inattentive to public business, and he should always hold it his duty to persevere in such measures as appeared to him calculated to promote the public good; nor should he be deterred from engaging in a business because it had not been attempted before, for that principle would shut out all improvement. Mr. L. said his friend from New Jersey had made an apology for his heat on opening the business; he was sure he was actuated by the best motives in doing so, but he did not think his conduct needed an apology. And what he had said with respect to the Secretary of State, he thought justified, from his conduct towards him, and from hearing a member say he had recourse to his office, he supposed that gentleman had received information which he could not receive. It arose from error, and the method of communication adopted by that member; he was, therefore, justified in his remarks; as, though it was a mistake, it was caused by that member, and no fault of his.

Mr. GOODHUE agreed with the member from Rhode Island [Mr. BOURNE.] He supposed it the duty of Consuls to attend to the cases of impressed seamen. There was no need, therefore, to send an agent to England.

Mr. S. SMITH said, that as the member from South Carolina had called upon gentlemen from seaports for evidence, if they were silent, it would be supposed no information could be given on the subject under discussion. He supposed he should be prevented from giving this information now, because the amendment of the first resolution was under consideration. [The House called for information.] He said he represented a port where the fact of American seamen being impressed by the British was so notorious that every man knew it. But how, said he, is this information to be got and transmitted to the Secretary of State? No complaint is likely to reach his office, except brought there by merchants. In his own trade, he had frequent instances of this sort almost in every voyage. He could not say the men impressed were always Americans, but they were men sailing under the authority of the United States. We have a flag, under that flag men are seized, and they have a right to expect, when seized, redress from Government. There is no difference between British and Algerines, for, by the former, they are compelled to fight against those whom they wish well, which is equal to any slavery that can be imposed. He said, that from one of his ships there were two New England men impressed; one of whom being a stout, courageous man, wished to have defended himself against his assailants; but the supercargo said, no, this will risk the cargo of the owner. This advice he gave, supposing Government would afford these men relief.

If the member from South Carolina wished for such information as would be received before a Court of Judicature, it could not be got. Mr. S. thought sufficient attention had not been paid by Government to the merchants and seamen. Mr.

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Jay, in his communication to Lord Grenville, says, an impressment of American seamen had taken place, who had been forced to fight, &c. If this had not been so, it had not been written by Mr. Jay, nor would Lord Grenville have promised relief. He hoped this information would be thought sufficient.

With respect to the business being transacted by Consuls, he believed America had only two in England, who are merchants, and who, having no salary, could not be expected to go from one part of the kingdom to the other. It was said by the member from Massachusetts [Mr. GOODHUE] that few American citizens sailed from the part of the country he came from; but would he not have citizens sailing from every part of the Union equally protected? It had been said that there were not many instances of American seamen impressed; but, suppose there were but one man, and he a negro, suffering under the galling yoke of impressment, it is the duty of Government to provide relief for that man. The same member has said that the Quiberon vessels did not impress the crews of the ships; he said it was sufficient to take their flour and pay them nine dollars for what might have been sold the next day for twenty or upwards. Mr. S. concluded by observing, that if we were a feeble nation, we had a right to expect justice; but he hoped we were not so feeble as some gentlemen imagined. He was pleased that a majority of the House was inclined to improve the resolution, rather than to destroy it.

Mr. GOODHUE said, he thought as ill of the British on account of their conduct in taking American vessels as any member; he mentioned only that the crews were not taken. He believed representations were made by Government respecting the conduct of the British. He was willing to join in any necessary measures for the protection of seamen. He did not think it would be necessary to send special agents to England.

Mr. MADISON observed, that the gentleman from Rhode Island who made the motion now in question, thought it unnecessary to send agents to Great Britain, because America had Consuls there. The member lately up from Maryland had anticipated what he intended to have remarked on that subject. He did not think the Consuls could do all that agents might. The Consuls are but two in number in the Kingdom, who receive no recompense, except an increase of business from their public character. Under these circumstances, if they do their ordinary functions, it is as much as can be expected; the business now wanted to be done is extraordinary. Besides, Consuls are unequal to the task. Men are seized, put on board vessels allotted for the purpose, until ships of war be ready to receive them. It is a heavy business, therefore, for a person to follow up the inquiry and go in pursuit of persons thus seized. If an agent or agents should be sent to Great Britain, no other business will require his or their attendance. After the present motion is decided, he should wish to have the words struck out, "fixing the place of residence for agents," and leave it in

the power of the PRESIDENT to appoint that particular.

Mr. HARPER always believed it necessary to have information on any subject on which that House legislated; but in this particular case, it seems it may be dispensed with; it is unnecessary to know whether any seamen have been impressed, or whether there be any at present impressed; and when a gentleman asks for information, he is represented as zealously opposing a measure in which he wished every necessary relief to be given. He should not inquire into the reason for this conduct, nor suffer it to deter him from doing his duty. He did not wish to make public professions of love to his country, but to leave his conduct to speak for him. He had understood that zeal, unless founded on knowledge, was not a very beneficial thing, and that the public good might be attained without vehement speeches. Under this conception he should continue to act, and he would leave other gentlemen to act a contrary part if they chose. He again called for the information he asked for before. He had called upon the Representatives of every seaport in the Union for information; he had received none. He then took notice of the different kinds of evidence which had been adduced, and would not allow it any weight. He said he was disposed, as far as prudence, necessity, and justice, required, to afford relief to his suffering fellow-citizens, but he should never agree to proceed in a business until he understood the nature of the grievances complained of. He said the Executive had a right to interfere when representations were made to him; the authority lodged in him is sufficient, and Legislative means are unnecessary. If his power did not enable him to do this, he should be disposed to arm him with the necessary power. He did not believe the cases of prisoners made by the Algerines, and men impressed by the British, materially different, except in the evidence of the fact. He had, indeed, seen certificates in the newspapers asserting that sixty men had been taken from American vessels, by one English frigate, but he did not believe it, because there was no other evidence of the fact. Mr. H. concluded by observing, that if the Committee thought differently from him, he should heartily give his consent to what the majority may approve. He thought a sufficient number of agents should be appointed, and that they should be placed in situations, not in which their own private interests might be best served, but where the public business required them. He would also have these agents paid a salary equal to their services. He was opposed to the amendment of the member from Rhode Island.

Mr. BOURNE rose to enlarge his amendment, leaving a greater power in the hands of the PRESIDENT, with respect to the appointment of agents.

Mr. BALDWIN wished the resolution to be so modelled as to enable the PRESIDENT to take the most effectual means to inquire into the situation of American seamen who may have been impressed by foreign Powers. He believed, though different members held different opinions on the

subject, they were equally inclined to effect the object in view. The Consuls were not sufficient, he said, but he would have it left to the PRESIDENT to appoint what persons he thought proper to do the business, and they must provide the necessary means.

Mr. GILES could not agree to striking out the duty of the agents; he thought it as necessary to say what the duty of the agents should be as to appoint them. He did not wish their place of residence to be designated—they might be employed in going to different countries. He was for getting redress from France as well as from England. He said it was somewhat singular to hear particular evidence called for, on the present question, after the general form of the resolution had been unanimously agreed to. It has been granted that American citizens have been impressed, but it is not known but they may be now at liberty. If coolness and deliberation, said Mr. G., do not give more information than the gentleman from South Carolina seems to possess, it would be well if he had a little more of the zeal he blames in others. They had endeavored heretofore to furnish a remedial redress to the evil complained of, but without effect; they wished now to take preventive means. If there are persons in bondage, they will be relieved; if not, future impressments will be prevented. He thought there could be no doubt of the fact. But he said the probability of danger was sufficient. At the breaking out of every war, neutral Powers are liable to have their rights invaded, and persons might be placed with propriety to prevent depredations on them. A circumstance had been mentioned that the British colonial regulations are such as to prevent a Consul residing there; it is doubtful, therefore, whether an agent commissioned by the present bill would be permitted to remain. It requires consideration. We have heard, said he, remarks on different kinds of citizens; it is the duty of Government to defend alike the native and the naturalized citizen.

The certificates of citizenship proposed to be given by this measure would accomplish this end. The similarity of language of British and Americans requires this step. If Britain discovers, said he, that we are determined to defend our seamen, she will forbear to injure them.

Mr. GOODHUE accorded with the member of Georgia not to designate the place of residence of agents. He thought there were not many impressed American seamen in Great Britain; he believed there were more in Hispaniola. Gentlemen had doubted whether agents would be allowed to reside in the British West India Colonies; he believed they would; the reason America had no agents there, was, they had no trade there.

Mr. HILLHOUSE said, if the gentleman who brought forward the present question, had been in the House when the subject was formerly discussed, he would have seen that the feelings of members were sufficiently alive towards their fellow-citizens—the American seamen. He believed there had been instances of impressment, and that they ought to be inquired into. What had been done for their relief, he knew not, but did not

doubt that the Executive had taken proper measures.

Mr. GALLATIN hoped the amendment would be adopted, as it had a tendency to unite the different opinions of members. As to a degree of sensibility taking place in any gentleman, it was not surprising. The first degree of heat displayed on the occasion appeared in a member opposing the business. The report before the House, said he, stated, merely, that the sufferings of our fellow-citizens are too notorious to need proof, and the feelings of every man would establish the truth. He would even ask the member from South Carolina himself, if he did not believe the fact? the only question was, whether this public notoriety was sufficient to ground their proceedings upon? In many cases it would not; but in a case where they might do good and no harm, they might safely act upon it. But, he said, there was an official report before the House in which the fact is mentioned. They had not had the Treaty between this country and Great Britain laid before them, but they had been officially informed of it, and there is no provision in that Treaty for the grievances here complained of. A gentleman has told the House, that Mr. Jay had made a representation on the subject, and that his representation was unsuccessful, so far as that it did not procure an article in the Treaty; but if they have confidence enough in the assurance of a British Minister, that Great Britain will protect American seamen in future, no farther steps are necessary; but if not, they should let the Governments of different nations know that proper means were taken for their protection. Mr. G. did not mean to tax any branch of Government with not having done its duty; he hoped it would not be made the business of the select committee to go into a detail of facts; he wished the bill to be general, and thought the facts sufficient for the purpose.

Mr. GILBERT was in favor of the business under contemplation, and of the amendment proposed; but wished for information, as, upon the extent of the evil, the number of agents to be employed would depend. He wondered there should be any objection to this; he wanted it not only for himself, but that the country might know the whole extent of the mischief.

Mr. LIVINGSTON said the proposed measures would give gentlemen the information wanted of unfortunate individuals at three thousand miles' distance, as it was proposed to send them a friend to inquire into their sufferings. He would state for the information of the gentleman from South Carolina, evidence which came within his own knowledge. The ship *Somerset*, from New York to Bordeaux, was taken on her passage home, by an English man-of-war, five of the crew were impressed, three of whom were American citizens. He hoped, therefore, after this fact, he might depend on his vote. He had no great objection to the amendment, though he wished the business to have continued as at first stated.

Mr. HILLHOUSE said, that in order to know how far the appropriation of money is necessary to en-

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able the PRESIDENT to go into the subject, the extent of the evil should be ascertained.

Mr. W. LYMAN liked the original form of the resolution better than the present. He said there were very few causes of complaint except against Great Britain, and he thought it a kind of false charge to charge other nations. It had the appearance of timidity. Gentlemen had said there was nothing but newspaper information to act upon; if there were no more, this, he thought, would be sufficient ground to inquire into the fact. There would be an expense indeed of five or ten thousand dollars, but he thought it better to pay this sum than that a single citizen should lie in chains. He was of opinion that there had not been too much, but too little sensibility discovered on this occasion.

Mr. BOURNE said, that the gentleman who spoke last had objected to the resolution because it included other nations with the British, though a member, in the course of the present debate, had mentioned an instance of a French privateer having so notoriously abused some American seamen, that the commander of the vessel was cashiered on a representation being made to that Government. With respect to the information wanted by the gentleman from South Carolina, he wished him to recollect what had happened at Rhode Island at a time when Government was sitting there. Nine citizens, he said, were discovered bound in fetters on board a British vessel, and taken out of it; and it is possible, added he, that this may be the situation of numbers of citizens of the United States. He approved of the resolution, because it made it the PRESIDENT's duty to appoint the agents, and the duty of the House to appropriate the money.

Mr. REED said, it seemed to be a doubt whether any American citizen was at present in the power of the British. Bishop White had mentioned to him, he said, that he had lately received a letter from an American sailor on board a British ship now lying at Halifax, whose mother lives in this city, entreating that some interference might be made on his behalf.

Mr. GILES did not wish to encroach on the duty of the PRESIDENT, nor did he think it would be any, to say agents should be appointed, and leave it to him to appoint them. He was of opinion with the member from Rhode Island, that American citizens should be attended to in other countries as well as in Great Britain. He had not heard of any impressments but by the British, but he had heard of captivities; and that House had heard of a French officer being cashiered for ill-treating American citizens; but it had heard no instance of Great Britain punishing officers for ill-treating American citizens. No; this marked the different character of the two nations towards the Americans.

A rising of the Committee being called for, it rose, reported progress, and asked leave to sit again.

Mr. W. SMITH presented a report from the Committee of Ways and Means, respecting an

appropriation for the Military Department, who recommended a resolution to the following effect:

"Resolved, That the sum of five hundred thousand dollars be appropriated towards the defraying of the Military Establishment for the year 1796."

Read a second time, and ordered to be recommended to a Committee of the Whole to-morrow.
Adjourned.

TUESDAY, March 1.

A memorial was presented from Richard Taburn, praying for a law to be enacted to encourage the introduction of the Useful Arts into this country, by allowing citizens who prevail with foreigners to bring over their discoveries to this country, to participate with them in the advantages to be derived therefrom. After some conversation on the propriety of admitting this memorial to be referred to the committee to whom was referred the bill for the encouragement of the Useful Arts, it was ordered for the present to lie on the table.

MILITARY APPROPRIATIONS.

The House having agreed to postpone the unfinished business of yesterday, to take up the report of the Committee of Ways and Means for an appropriation for the Military Establishment for 1796, presented yesterday—the House accordingly resolved itself into a Committee of the Whole, and went through the report without amendment. It was suggested by Mr. NICHOLAS whether a less sum than \$500,000 would not be sufficient for the present provisional supply. Mr. W. SMITH and Mr. SEDGWICK said that a less sum might answer the present purpose, but that it would make no real difference whether two hundred or five hundred thousand dollars were granted, being only on account of expenditure, which would require, it was supposed, near a million and a half of dollars. As the bill passed through the House, Mr. GALLATIN observed, that if any member wished a less sum to be granted for the present, a less sum might be agreed to. No amendment being proposed, the report was agreed to, and referred to the Committee of Ways and Means to bring in a bill.

TREATY WITH GREAT BRITAIN.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
of the House of Representatives:*

The Treaty of Amity, Commerce, and Navigation, concluded between the United States of America and His Britannic Majesty, having been duly ratified, and the ratifications having been exchanged at London on the 28th day of October, 1795, I have directed the same to be promulgated; and herewith transmit a copy thereof for the information of Congress.

G. WASHINGTON.

UNITED STATES, March 1, 1796.

The note from the PRESIDENT accompanying the Treaty, and the additional article being read, the Treaty and papers accompanying it were referred to the Committee of the Whole on the state of the Union.

AMERICAN SEAMEN.

The order of the day on the report for providing relief to American seamen, being taken up,

Mr. SWANWICK rose to inform the House, that since he was in his place yesterday, he had been called upon with evidence on the subject now before the Committee, in consequence of the call made for it in the course of the debate. The instances he had given to him were, the case of Robert Norris, a native of Princeton, in New Jersey, and five others, who sailed on board the American brig *Matilda*, Captain Burke, from Philadelphia, which sailed from this port in May last, for Bordeaux, and were, on the 9th of July, brought to by four British frigates, forcibly taken out of the vessel, impressed, and compelled to go and serve on board one of the said frigates, called the *Stag*, where they served four months, when the said Robert Norris made his escape from the frigate at Sheerness, at the risk of his life, and returned in January last to the United States. His companions he believes are yet in bondage. The other instance was the brig *Sally*, Captain Wilkins, which sailed from this port in May last, bound to Madeira, and five days after leaving the Capes was brought to by the *Rattlesnake* sloop-of-war, Captain York, and the mate (a native of Scotland, but who had sailed for many years out of the United States) and one of the best seamen, (an American,) taken out. They were carried to Halifax, from whence the foremast man made his escape, and arrived here the beginning of July. Before they arrived at Halifax, he informs, that fifteen men were taken out of American vessels. Mr. S. read also an account from an owner of several other impressments.

Mr. MADISON said, if the motion under discussion was meant to supersede the appointing of agents, he should object to it. Perhaps, he said, a question might arise whether an agent of this kind might be an officer of the United States. But, however this might be, the Constitution said that no office could be created and filled by the same power; this being the case, that House ought to establish the office, and leave the PRESIDENT to fill it. Besides, if it be the intention of the House to furnish relief to the objects contemplated, they should designate the mode; and no doubt could be entertained but that agents specially appointed would be preferable to Consuls. But if the present motion was agreed to, it would be dismissing the plan of appointing agents, and leaving it to the PRESIDENT to appoint them or not. He hoped therefore the original resolution, and not the amendment, would be agreed to.

Mr. W. LYMAN opposed the motion on the same ground as yesterday.

Mr. S. SMITH said that it was true the PRESIDENT had already the power to appoint agents, and the annual vote of forty thousand dollars for foreign intercourse would give him the means, but that he could not pursue the liberating of our seamen so well without as he would with such a law as the resolution contemplated. In addition to the instances given of American seamen being impressed, he read some accounts of impress-

ments from a Baltimore paper, made recently at Cape Nichola Mole, one of which stated that one hundred and fifty Americans were on board one frigate on that station. Mr. S. concluded by saying that if a law passed agreeably to the resolution, it would show the nations of Europe that we would no longer submit to the injuries done our seamen.

Mr. HARPER said, he should give his concurrence to the amendment, as most likely to obtain information of, and furnish relief to, American seamen; for, though he differed from certain gentlemen, he was not less a friend to that useful body of men than they. He supported, as before, the reasonableness of grounding every proceeding of that House upon due evidence.

Mr. BALDWIN said, if the amendment was considered as his, he should not think it of sufficient importance to delay the matter. Of the two means, he thought it the best, and gave his reasons for that opinion. The Constitution, he said, supposed that the Executive would always create as many officers as were necessary, and the Legislature had the power of checking too great a multiplication of them.

Mr. LIVINGSTON was more and more convinced of the propriety of the original resolution, and of appointing agents specially for the purpose. He mentioned an affecting instance of the impressment of an American seaman, and touched upon some of the arguments which he yesterday used in support of the measure.

Mr. BOURNE wished the resolution to be as general as possible. The PRESIDENT, he said, had sent an agent to the West Indies, and he doubted not that he had authority to relieve American seamen: if so, there was no necessity of providing by law for a special agent. If this should appear necessary when they received information from the Secretary of State on the subject, they might provide accordingly. It may appear, perhaps, that the Consuls in different ports have already received instructions to inquire into the state of impressed seamen. He defended the conduct of the member from South Carolina, and thought much had been said against him, unnecessarily, on account of his difference of opinion on the present question. Mr. B. concluded, by observing that he doubted not that the evil complained of existed, and that when official statements were received, they would fully establish the fact. He hoped the amendment would be adopted.

Mr. GALLATIN wished yesterday that the resolution might be made as general as possible, and that nothing might be included in it that could give offence to any branch of Government. On due consideration of the subject, he had, however, found that, without appointing an agent, the desired effect would not be produced. The PRESIDENT, he said, has the power to appoint Ministers, Consuls, or Ambassadors. It was necessary they should designate the kind of agent they meant to appoint. The PRESIDENT has the power to appoint agents of inquiry, but he has no power to appoint an agent in an official capacity. The re-

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solution, he said, went to two objects: the first, that of inquiry into the state of American seamen, might be attained by an agent appointed by the PRESIDENT; but so far as relates to obtaining relief, it is necessary for the Legislature to appoint an agent. To show that this distinction was a good one, he said, there was now a proposition made either to the House, or to the Committee of Ways and Means, for the appointment of an official agent to go to Holland. This shows the opinion of the Executive on the subject. Unless, therefore, it was meant to prosecute the proposed inquiry by means of the Consuls, the amendment must be rejected. It was not necessary to designate the residence of agents; indeed, it appeared matter of doubt whether they had power to appoint an agent to reside in the British Colonies in the West Indies. He should wish the terms to be general, leaving the particular places of residence to be fixed upon afterwards. He wished, therefore, the words for appointing agents to be retained.

Mr. SEDGWICK said, he was yesterday prevented from attending the House by indisposition. The subject struck his mind, he said, in several points of view which had not been noticed. He was surprised why the business was undertaken in the way it was. No description of men, he said, were more entitled to regard than seamen; but this did not reconcile the adoption of the subject in the manner proposed. The Executive, he was of opinion, would consider itself as charged with this business. An agent who is neither Consul nor Minister, is an instrument unknown, an undefined character—a character that would not be recognised. It was impossible, he said, for any two agents, one in Great Britain and the other in the West Indies, to gain information of the sufferings of seamen in different parts of the two countries, particularly in Great Britain. He called upon gentlemen to say whether they had ever heard of such a character as they were proposing to create? He said America had Consuls in every part of the world; and if they have not, they ought to have salaries for the business. Why appoint agents, and what authority will they have? Was there, Mr. S. asked, any information before the House of remissness of duty in the Executive? He was of opinion all due care had been taken for the protection and security of citizens of the description alluded to. Had no inquiry been made of the Secretary of State on the subject? It was well known that neutral nations will always be exposed to injury whilst war existed. Insolence of office, he said, would serve to widen breaches of this sort, and American citizens speaking the same language with the English, were more than others liable to injuries. Mr. S. noticed the different kinds of American citizens, and of the difficulties arising from the doctrine of inalienable right, supported by the English; and observed that when two countries each claim a right to a man, no means but force was left to decide between them. He concluded, by observing that whilst this country had Consuls whose business it was to attend to the dis-

tresses of sailors, he could see no reason for appointing agents. Nor was he prepared to go into the question, until he was conscious there had been remissness in the Executive.

Mr. WILLIAMS observed, that he was opposed to the amendment, because it would not, in his opinion, extend to the relief intended. But he did not suppose the Executive had been remiss in duty, or any officer in the Government; or that the Minister in a late negotiation did not exert himself to prevent the abuses complained of; but finding every measure heretofore adopted ineffectual, ought they not to point out some other mode? Whilst the evil exists, let not, said he, our fellow-citizens languish under British cruelty and oppression. The resolution, as reported in its present state, contemplates the appointment of agents to reside in the most proper places, to receive information, and pursue such measures as prudence shall dictate. This method, said he, will be a guide to the PRESIDENT; and the will of the Legislature will be carried into execution; but if the amendment prevails, it will then leave the resolution upon such general principles as to afford no specific direction; will add nothing to the authorities which the PRESIDENT now possesses, nor give any new direction, and will therefore leave the business exactly where it was found.

Mr. S. SMITH should not have risen again, had it not been for what had fallen from a member from Massachusetts. That gentleman said we had Consuls everywhere; but he believed they had Consuls scarcely anywhere. He answered what had fallen from a member from Massachusetts respecting the inquiry at the office of the Secretary of State; members in that House, he said, too frequently bottomed their arguments on the credit of the PRESIDENT; he believed no man had a higher value for him than he had; but it was enough for him that the unfortunate men whose cases they were considering needed relief, to join in bringing forward the present subject; nor, in doing this, did he mean to reflect on the Executive. He touched upon several arguments which he used yesterday, and concluded, by citing a number of hardships experienced by American seamen from the cruelty of the British.

Mr. GILBERT wished not to precipitate this matter until the necessary information could be got from the Secretary of State. He wished the Committee to rise.

Mr. SEDGWICK explained, and mentioned five Consuls in England.

Mr. SWANWICK explained the nature of the Consular character, and said, though there were five in England, there were none at the seaports where the British ships of war principally lay, viz: Portsmouth, Chatham, Sheerness, &c., nor any in Scotland or Ireland. In the West Indies there was no Consul; and it was necessary to have attention paid to Halifax and Bermuda, where many American seamen lie. The expense in effecting this business, he said, would be considerable; but this was no objection; it was a measure necessary to preserve to the country the

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lives and usefulness of a valuable body of men. Mr. S. next alluded to what had been said about the proposed agents being of a nondescript character, and believed the British would treat them with as much respect as any other officer of the American Government. No reflection was meant by this view of it to be thrown upon any body; they sat there, he said, as legislators, and when they talked about hurting the feelings of such and such officers, he thought they were mispending their time. The present measures, Mr. S. said, were not only calculated to produce relief for present sufferers, but prevention from future evils, by giving certificates to every citizen seaman: and he hoped this would induce merchants to take apprentices to the sea-faring business; and by that means build up a valuable body of seamen, which will be of greater wealth to the country than the mines of Mexico or Peru. He concluded, by supporting the original resolution, and against the amendment.

Mr. GILBERT explained.

Mr. HILLHOUSE believed the great diversity of opinion on the subject before the House, arose from a wish to determine upon the best possible way of serving the class of men who were the object of their present inquiry. It has been said that America had only five Consuls in England, but surely these five Consuls would be better able to do the business in question than one solitary agent. He thought a Consul General might be appointed, who should have the power to call upon all other Consuls for assistance to carry into effect the business upon which he was commissioned.

Mr. JEREMIAH SMITH proposed to combine the two places of agents and Consuls together, by leaving it optional with the PRESIDENT, which plan he thought best in each particular case.

Mr. MADISON again urged the propriety of adopting the plan of agents, in preference to Consuls, and showed that in adopting this plan, they could not be considered as wanting in respect to the Executive, since they would be doing no more than their duty.

The question being called for, the amendment was lost—being 33 for it, and 52 against it.

The original resolution was then carried, after striking out the words "such part of."

The second clause being read, Mr. GOODHUE and Mr. JEREMIAH SMITH remarked upon the difficulties which would attend the registering of seamen. They were replied to by Mr. LIVINGSTON, who was of opinion it was perfectly practicable. In speaking of the different kinds of American citizens, Mr. L. spoke of those who were natives of other countries, but who had sought an asylum under the American Government, and quoted a great number of ancient and modern authors, and even some English acts of Parliament, to prove that "man has an inherent right to go into whatever country he pleases, and by residing there, and conforming to its laws, become a citizen thereof."

After which, the report was agreed to, and the Committee rose. It then underwent a consideration in the House, and after a number of observa-

tions with respect to the propriety of two or three different amendments, it was agreed to, with an amendment, proposed by Mr. SWANWICK, to strike out the words "West Indies," in order that Halifax and Bermuda might not be excluded.

The report, thus amended, is in the following words:

"*Resolved*, That provision ought to be made for the support of two or more agents, to be appointed by the President of the United States, by and with the advice and consent of the Senate; the one of which agents shall reside in the Kingdom of Great Britain, and the others at such places as the President shall direct; whose duty it shall be to inquire into the situation of such American citizens as shall have been, or hereafter may be, impressed or detained on board of any foreign vessel; to endeavor, by all legal means, to obtain their release, and to render an account of all foreign impressments of American citizens to the Government of the United States.

"*Resolved*, That proper offices ought to be provided, where every seaman, being a citizen of the United States (on producing evidence, duly authenticated, of his birth, naturalization, or residence within the United States, and under their protection, on the third day of September, one thousand seven hundred and eighty-three) may have such evidence registered, and may receive a certificate of his citizenship."

Ordered, That a bill or bills be brought in, pursuant to the said resolutions; and that Mr. LIVINGSTON, Mr. BOURNE, Mr. SWANWICK, Mr. S. SMITH, and Mr. W. SMITH, do prepare and bring in the same.

WEDNESDAY, March 2.

A bill for making a partial appropriation for the Military Establishment for the year 1796, was read a first and second time, and committed to a Committee of the Whole to-morrow.

It was moved that the consideration of the Land Office bill, which was the order of the day, should be laid aside, to take up the consideration of the subject of the Naval Equipment; but after some observations for and against the postponement, the sense of the House was taken, when there appeared for it 27, against it 41.

Mr. BOURNE wished a Letter that had been mentioned to have been received from the War Office might be read. It was produced and read accordingly. It contained an account of the materials wanted, the money expended, and what would yet be required to complete the building of the frigates. Referred to the Committee on the Naval Equipment.

Mr. LIVINGSTON said, that it was generally understood that some important Constitutional questions would be discussed when the Treaty lately concluded between this country and Great Britain should come under consideration; it was very desirable, therefore, that every document which might tend to throw light on the subject should be before the House. For this purpose, he would move the following resolution:

"*Resolved*, That the President of the United States be requested to lay before this House a copy of the in-

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structions given to the Minister of the United States who negotiated the Treaty with Great Britain communicated by his Message on the first instant, together with the correspondence and other documents relative to the said Treaty."

Ordered to lie on the table.

INDIAN TRADING HOUSES.

Mr. PARKER moved that the unfinished business might be postponed, to take up the consideration of the report of the select committee to whom was referred the amendments of the Senate to the bill for establishing trading houses with the Indian tribes. The House agreeing to this question, the report and amendments were read, when

Mr. PARKER, one of the committee, gave the reasons which induced them to recommend to the House to disagree to the amendments of the Senate. He said they went to alter the principle of the bill. The bill took precautions to prevent Government from suffering loss, but one of the proposed amendments puts it in the power of the PRESIDENT to alter the price of merchandise, as he may think proper. The bill fixed the sum of six thousand dollars for the payment of six agents, which was thought both by the late and present Secretary at War to be sufficient; but the Senate has struck out the clause, and left it to the PRESIDENT to appoint as many agents and to pay them what sum he pleases. The bill has directed that offenders against the act shall be tried and punished in the vicinity where they live; but the Senate propose that offenders shall be taken and tried anywhere. It may be said that offences against this act would be of the same nature as a debt; but, he said, to be so tried, would take away the great privilege of the Habeas Corpus act; that it was one of the grievances complained of when this country was under British Government, that they were removed into that country to be tried. The principle of these amendments, he said, amounted to this, that the PRESIDENT should sell goods at what price he pleased, give what salary he chose to agents, and try offenders against the act where he thought proper.

Mr. SEDGWICK hoped the amendments would be considered separately.

The first amendment being read, respecting the appointment of agents—

Mr. HILLHOUSE hoped the House would agree to the amendment. He saw no inconvenience in leaving it to the PRESIDENT to appoint agents and fix their salaries, as they might be employed in other business, which, at present, persons are specially employed to transact under a former act.

Mr. PARKER said, this act was meant to introduce a friendly intercourse with the Indians, and ought to have no connexion with any other business.

Some observations took place between Mr. J. SMITH, Mr. PARKER, Mr. SEDGWICK, and another member, on the propriety of the wording of one of the clauses of the bill, which was at length allowed to be right.

Mr. GILES said the question was, whether one hundred and fifty thousand dollars, the sum pro-

posed to carry into effect the bill in question should be given up to the sole direction of the PRESIDENT, or whether that House would direct how it was to be disposed of. It was the first time, he said, that a proposition had been made that the PRESIDENT should be allowed to give salaries *ad libitum*. The bill provided that six thousand dollars should be paid for salaries, but it would be very improper that the whole sum for carrying the act into effect should be put in the power of the Executive. He said he had never any sanguine expectations from this bill, but had no objection to the experiment being tried.

Mr. JEREMIAH SMITH believed it was right to limit the power of carrying into effect this bill, but thought six thousand dollars too small a sum to be allowed for agency. He said it was contemplated to have six trading houses, and it would be necessary that each should have a clerk, who would expect five hundred dollars, so that there would remain only three thousand dollars for the six agents. He supposed an alteration would therefore be necessary in the sum. As a conference would most likely take place between the two Houses, he thought it best to disagree to the amendment, in order that the clause might be differently modified.

Mr. HILLHOUSE again spoke in favor of the PRESIDENT's appointing the agents, in order that he might employ them in other business, and by that means save an expense to the public.

Mr. MILLEDGE was of opinion that the agents, appointed under this act, should be confined to the business of it alone.

Mr. DEARBORN said it would require a very different person to be employed in a trading house from those employed in distributing articles to the Indians, the act for authorizing which he believed expired this session. He thought the sum would be fixed for salaries; but he thought six thousand dollars far too little, and he believed it should be twelve thousand.

The motion being put, on agreeing to the report of the committee to reject the first amendment, it was carried. The other amendments were severally put, and, after a few remarks, four of them were agreed to, and four rejected; and the Clerk was directed to acquaint the Senate therewith.

LAND OFFICES N. W. OF THE OHIO.

The House resolved itself into a Committee of the Whole, on the bill for establishing Land Offices for the sale of the Northwestern Territory. The amendment proposed for selling the land by auction being under consideration—

Mr. BALDWIN said he was in favor of the amendment. He was not disposed to encourage, in his own mind, too great suspicions of the integrity of individuals; but it is not to be forgotten, said he, in making the provisions of this land law, that it is to be carried into operation in times singularly exposing it to a mercenary and unfaithful execution. We must temper our laws to what we see to be the state of the country. Philosophers and politicians, in some ages, have made such success-

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ful addresses to human nature, on the subject of honor, virtue, patriotism, and regard to the public interest, that reputable men despired appearing to be governed in their actions by pecuniary considerations; but philosophers and politicians with us have of late made their most importunate and successful addresses to other passions, and have excited the insatiable sordid passion of avarice to an unusual degree. Speculation and making money are rarely found in a more raging extreme, and persons whom we have supposed worthy of our confidence and esteem, publicly practising the meanest and most disgraceful arts and tricks of swindling; and instead of being exhibited to public infamy in the pillory, they show an unblushing front in a very different situation. When such men, said he, are publicly patronized and treated with respect, it is necessary to take care how we suffer the execution of our land law to depend on the disinterestedness of an individual.

Mr. COOPER was in favor of selling by auction. No man, he said, would be at the trouble and expense of exploring the country without some certainty of purchasing. But if the bill remained in its present form, a farmer might travel and explore these lands, and when he goes to the sacred Land Office, with his money in his hand, the agent might easily inform some favorite speculator what was the highest sum offered, so that he might advance some trifle upon it. Why, said he, adopt a secret plan, when an open one can be adopted with greater advantage? He referred to the State of New York, as a proof of the preference due to the public mode of selling.

Mr. KITCHELL said he was one of the committee who brought in the bill, and at that time he thought the plan proposed the best; but from what he had heard advanced on the subject, and from seriously considering the matter, he was now of opinion that a sale by auction would be best. He knew there were objections to be urged against that mode of selling, but he trusted they would be mostly obviated.

Mr. HILLHOUSE also said, from observation and reflection, he was now in favor of selling the land by auction. He hoped that salt springs and other valuable lots would be reserved for the use of Government. He had no idea of bringing the whole of the land into the market at once, and would therefore preserve that clause of the bill which makes two dollars the lowest price at which any part of the land shall be sold. He would have offices opened to which applications should be made for any lot of land that might be chosen, which should be advertised and publicly sold; and he would have no parcel of land offered for sale, which was not fixed upon by some person, and then there would always be a certainty of one bidder at least. By this means, he doubted not, a good price would be got for all the best tracts of land.

Mr. ISAAC SMITH was in favor of selling by vendue, as he hoped it would preclude the possibility of deception or fraud.

Mr. HAVENS spoke in favor of public sales, but, he said, if the minimum price was set too high, it

would prevent competition in bidding. The bill was objectionable, as it contemplated only one plan; if the whole of the land is not sold by the present plan, there is no provision for selling the rest. If the map was looked at, he said, it would appear to be most convenient not to dispose of the whole at once, but only particular parts. He thought the bill should describe such parts of the land as should be sold.

Mr. MOORE thought that if a mode was adopted for persons inclined to purchase to offer their proposals in writing, unsealed and open to inspection, for the small lots, it would afford the best opportunity of suiting persons who might wish to become settlers.

Mr. CORR wished to make a motion to strike out the whole of the section. It was his opinion they ought to proceed no further in the business, until they had caused a survey of the land to be taken. It was unfortunate for the House that they were legislating on a subject upon which they had very little information. In the course of the next season, he said, the land might be surveyed, and important advantages would arise from it in the sale of the land, by the quality of soil, situation, &c., being distinctly marked on the map. The sale might then be regularly entered upon. At present he thought the House had too little knowledge of the land to fix upon such a plan of sale as shall produce the greatest advantage.

Mr. NICHOLAS thought that the present was the time to dispose of the land, when speculation was at so high a pitch. The fixing upon a plan of surveying would take up as much time as the selling of the land. They would be perfectly safe, he said, in selling by auction, and fixing a minimum price; and no error, he was of opinion, could take place in the sales.

Mr. W. LYMAN hoped the section would not be struck out. The advantage of selling at present was great, owing to emigration, and if the land be not sold, it will be taken possession of without sale; and if settlements begin on that principle, it will deprive the United States of great advantages.

Mr. DAYTON (the Speaker) said, it was well known to gentlemen that there was plenty of land to be purchased, whether Government agreed to open a Land Office or not, and except in providing for a survey, a sale is also provided for, the consequence will be, that persons will buy land of others, who have it to sell in the neighborhood of these lands. Another thing; as the sale of this land respected revenue, so far from providing a revenue by the plan of surveying proposed, a certain great expense will be incurred. The present emigrations, he said, were great, and likely to increase, from the opening of the Mississippi and other causes. The object should be, he said, to hold out inducements to these people to wait for these lands. He was in favor of the mode of selling by auction; but as that was not at present the subject before the Committee, he should wish the section to remain, in order to consider the amendment.

Mr. KITCHELL said, that the speediest manner

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of bringing forward land into the market, would be of the greatest advantage in all respects.

Mr. COIT supported his motion. It was said, he observed, that if the land was not sold, it would be settled upon. He said it would take up nearly as much time to make a survey for sale, as to carry into effect the plan he proposed.

The motion was put and negatived.

The motion for selling by auction being put, was agreed to.

Mr. NICHOLAS moved to strike out a part of a section, and insert the words, "*Provided*, That no part of the said land be sold for less than two dollars per acre."

Mr. COOPER wished the House might not determine to fix the lowest price of the land at two dollars per acre. Many millions of acres were now selling, he said, on the Ohio, for three shillings on long credit. He thought if the minimum price was fixed at ten shillings, it would not affect the price of good land.

Mr. DAYTON (the Speaker) said it was not meant to sell the whole of the land at present, but only a certain proportion. For this purpose, two dollars per acre is the price fixed upon as the lowest; and if this price were not sufficiently high to prevent more than from five to 800,000 acres of the best land being sold the first year, he should advise it to be higher. The following year a like quantity might be brought forward. By this means, the land will progress in value as it becomes settled, and the land of second or third quality, in the course of a short time, will come to be worth as much as the best land at the opening of the sale.

Mr. WILLIAMS thought the plan proposed would prevent more land from being sold at first than would be purchased by settlers, and cause a competition in the sale. He thought there were many tracts of the land worth double the price mentioned, but a sale by auction would find its real value.

Mr. HEATH thought the minimum price of the land too high.

Mr. DEARBORN believed a very great proportion of the land first sold would command a considerably higher price than that fixed upon.

Mr. GALLATIN said the more he reflected on the subject, the more he was convinced there was no safe plan to be adopted in the sale of this land without limiting the price. And if a low price was fixed, in order to accommodate persons of small property, they should fall into error. He said there were two kinds of purchasers of lands, settlers and speculators. The demand of the first class is always limited, and the remainder falls into the hands of speculators, and they will be induced to purchase only by a prospect of profit. In the year 1792 all the land west of the Ohio was disposed of to speculators at 1s. 6d. per acre, and in a week afterwards sold for a dollar and a half; so that the money which ought to have gone into the funds, went into the pocket of the moneyed men who purchased. In order to govern the price of the land in contemplation, it is necessary to inquire at what price land in the

neighborhood sells for. This inquiry has been made, and it is found, that land as good in quality sells for double and treble the price put upon this. Speculators cannot afford to give this price: the consequence will be, that those only who mean to settle will give the price. This will prevent too large a quantity from coming into the market at once, and give Government that money which speculators would get were a lower price fixed upon the land.

The motion was put and carried.

Mr. GALLATIN said that it had now been agreed that the land should be sold by auction, and that no lot should be sold for a less price than two dollars per acre. If in order, he would move a provision that the large tracts should be sold at the Seat of Government, and the small ones in the Western Territory. He proposed this provision, as he believed it would meet the wishes of the House, though he was of opinion it would be best to sell the whole in the Territory, as he conceived, that no person would give two dollars per acre, except such as were acquainted with the quality and situation of the land; the conclusion is, that a man who wishes to purchase must send an agent to examine the land before he purchases, and when he is upon the spot, he can purchase without further trouble. This would be the most equitable and equal way. Whereas, if sold at the Seat of Government, an advantage is given to such as live in the neighborhood; but, as he did not expect it to pass, he did not wish to move this proposition. He moved first, "that the small lots be sold upon the Western Territory."

Mr. WILLIAMS wished some specific place to be mentioned.

Mr. GALLATIN thought that different parts of the land would sell better at one place, and other parts at other places.

Mr. HAVENS thought the proposed plan of sale would yet favor speculators too much; for, when agents were sent to explore the lands, they would become acquainted with the value of small tracts as well as large, and enter into competition with the settlers for them.

Mr. DEARBORN said it appeared that the member who spoke last was afraid of too great a competition for the lands; he thought there was no great danger of getting too high a price for them.

The motion was put and agreed to.

Mr. NICHOLAS moved that it be added, "And that the large tracts of land shall be sold at the Seat of Government."

Mr. MACLAY was in favor of selling all the lands upon the Territory.

Mr. NICHOLAS said there would be a great advantage lost by selling the large lots on the Territory; for when agents are commissioned to buy, they are limited to price, but when principals attend a sale (which would most probably be the case if sold at the Seat of Government) they are frequently induced by competition to give more for an estate than they at first intended.

Mr. DAYTON said, if the member who objected to the present motion, would apply to his former remarks on the subject, he could not support his

objection. He said, the sending of agents might be of considerable advantage to the sale of the lots, as, on their return, their report would be heard by many, and probably influence persons to attend the sale at the Seat of Government; but, if the sale were on the land, no such advantage would arise from the mission of agents.

Mr. RUTHERFORD was in favor of the whole of the lands being sold on the Territory.

Mr. VENABLE said, if the large tracts of land were to be sold only at the Seat of Government, it would be a great disadvantage to the sale; for if a person goes from a very distant part of the country to view the land, he will perhaps have a still longer journey to the Seat of Government to make a purchase, as it is not to be presumed that all persons who mean to purchase will employ agents. This was a very serious inconvenience, and he hoped it would not be agreed to.

The motion was put and carried.

Mr. HILLHOUSE thought it necessary to add a clause, in order to reserve all the salt springs for the use of Government. Agreed to.

Mr. ISAAC SMITH moved that a suitable reservation of land should be made for colleges and schools. Agreed to.

Mr. WILLIAMS moved a clause to the following effect:

"Provided one actual settler be not on every — acres of land within — years from the sale thereof, it shall return to the Government of the United States, the same as if no such sale had taken place."

Mr. CLAIBORNE hoped the lands themselves would be sufficient inducement for settlers, and that purchasers would be left at full liberty in respect to settlement. He could never agree to any regulation that should go to the taking away of land from a purchaser who had fairly paid for it.

Mr. NICHOLAS and Mr. COOPER were both against the motion.

Mr. RUTHERFORD was in favor of the motion.

Mr. WILLIAMS said, if the clause which was recommended was made a condition in the purchase, there was nothing unreasonable in it. It was as necessary that the country should be settled as that the land should be sold. Or shall it be said that the honest, industrious settlers, shall make roads, bridges, and other improvements, whilst the rich holders keep their lands in hand until these improvements are made, in order to increase the value of them? The member from New York who opposed this motion, knows that the poor inhabitants on the new settled lands in that State are obliged to do this. He thought this clause very essential in the act.

Mr. COOPER replied, and the Committee rose, and asked leave to sit again.

WEDNESDAY, March 3.

A message was received from the Senate announcing that they insist on their amendments, disagreed to by this House, to the bill, entitled "An act for establishing trading houses with the Indian tribes."

NORTHWESTERN LAND OFFICES.

The House having resolved itself into a Committee of the Whole, on the bill for opening Land Offices for the sale of the Western lands, and the amendment proposing that there should be one actual settler upon every — acres of land, being read—

Mr. HAVENS wished to give some reasons why he thought the amendment unnecessary. He said it had been introduced in the State of New York without effect; there was not rigor sufficient in Government to carry such a clause into effect. Besides, in order to avoid the forfeiture, a purchaser might build a hut, put in a person for a time, and then go off again. Another reason for objecting to it was, when a certain number of inhabitants shall have taken up their residence in the country, it would be organized into a State, and form itself into a Government, which could tax the property of non-residents. This would be an effectual measure to prevent the engrossing of land. A like regulation had taken place in the State of Vermont, which had answered the purpose, and he conceived always would have the effect. He should, therefore, vote against the amendment.

Mr. WILLIAMS said the regulation he proposed had not been carried into effect in the State of New York, but it was owing to the influence of the Legislative body preventing it. It was introduced four years ago; but it was now put into other hands, where the interest of great landholders will not prevent its operation. Were land sold in small tracts, it might be taxed in the way proposed; but when sold in large tracts, the holders of such tracts have generally too great an interest in the Legislature of the State to prevent a law passing to this salutary end. In the State of New York, a tax of this sort was every year proposed, but always rejected by those whose private interest would be affected thereby.

Mr. GALLATIN was in favor of the amendment. He conceived that the happiness and prosperity of the country would be promoted by preventing the lands, the sale of which they were contemplating, from being engrossed in few hands, and he believed the provision now under consideration, together with the price fixed, would have that effect. The only material objection to it is, that it may diminish the revenue by reducing the price that would otherwise be paid for the land. He thought this a specious objection, not a solid one. He believed the regulation would prevent some speculators from purchasing, but he thought it a beneficial thing that they should be driven from the market. Lands which produced nothing were of no real value. The high price expected must be got from real settlers alone. The consequence will be, that a less quantity of land will be sold, but a sufficient quantity to satisfy actual settlers will be disposed of, notwithstanding this clause, and Government will pocket the profit which speculators otherwise would have had. And, in the following year, the land which would have been engrossed by speculators, but for a provision of this kind, will be brought

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into market to meet the demand of fresh settlers, at perhaps an advanced price.

It had been said, Mr. G. observed, that this regulation would hold out too great encouragement to emigration. Whether this law passed or not, the same number of men would go to this land. It was not from a distance that emigrants were to be expected, but from tracts adjacent; this clause would inflict a penalty on men who purchased lands with speculative views alone. With respect to what had been said about an evasion of the act, it would be easy to define what constituted an actual settler.

It has been said, that taxing non-residents would produce the effect intended by this clause. Mr. G. thought differently. In the State of Pennsylvania that practice had been adopted; the taxes laid upon persons of this description have never been sufficient to induce settlement. They have found their land increase more in value by means of settlements taking place, than any amount of taxes laid upon it. It has been said, that larger taxes might be imposed; but they will not be paid. In the country where he lived, the occupiers had been called upon to pay their quota of taxes which could not be got from non-residents. He would ask gentlemen whether they wished the land to be engrossed or not? and if they do not, he would be glad if they could produce a better plan for preventing it than this. Before the Revolution, a plan of this sort was adopted from one end of the country to the other, and he believed it was owing to this regulation, that they owed a great deal of the happiness and prosperity which they had since enjoyed. He wished, therefore, the example to be followed.

Mr. COOPER said few men could afford to pay two dollars an acre, and none would pay it, except those who meant to settle upon the land. It was not well to make severe settling clauses. Security would operate against them. In the State of New York the regulation could never be put in force.

Mr. DAYTON (the Speaker) said, if the sole object of the amendment had been to prevent the land being engrossed, it would have had his support: but he did not think it would have that effect. He thought that fixing the price of the land, which should not be less than two dollars per acre, would produce this effect; but the proposed regulation, he thought would have a different effect; it would reduce the price of the land. He was of opinion that land, which, without this clause, would sell for four dollars an acre, with it, would not sell for more than three and a half. Besides, no Government ever did, or ever would, enforce such a regulation. It would be holding out, also, a premium to emigration, which, he trusted, was not the intention of the Legislature; for persons who purchased land at three dollars and a half per acre, to obtain settlers, might be obliged almost to give it away. Indeed, he thought it unnecessary to multiply arguments against a regulation calculated to produce so many injurious consequences.

Mr. S. SMITH said it did not appear to him that the amendment could have any good effect. No

law which countenanced injustice could be carried into execution; and to take away land from a purchaser, after he had justly paid for it, could not be accounted anything less, as perhaps it might not be possible to get men to settle upon the land within the limited time. For instance, suppose a war was to take place with the Indians, it would be impossible to fulfil the contract. In such case, it will be said, petitions would be heard for relief. The regulation, in his opinion, might produce many evils. The large tracts of land, he said, must be purchased by moneyed men, and there ought to be no objection thrown in their way.

Mr. RUTHERFORD thought the amendment ought to be agreed to. He spoke highly of the people living on the frontier. He heard fishermen say that the best fish always rise highest, and so it was with the people, who were the best on the frontiers; they are not too polite to be religious; they are hospitable and neighborly, and do not employ their nights in nocturnal revellings. These honest men suffer immense inconveniences by the incursions of their savage neighbors, the Indians; they cast their eyes about them for assistance, and see nothing but large unoccupied tracts of lands, whose owners, perhaps, are living secure in some large city. This, he said, was distressing to them. Without this amendment, he thought the bill would have no good effect.

Mr. CLAIBORNE was sorry to differ in opinion from his colleague on this subject. He thought the land would not be settled in half a century, and that the amendment would be a clog on the sale, by deterring men from purchasing. They ought, he said, rather to throw out encouragement to induce men to become purchasers. Excessive laws, he said, were never executed, and to adopt this measure would destroy the bill.

Mr. WILLIAMS was confident his amendment would have the best effects. He believed no country was ever more speedily settled than the Genesee country, in the State of New York, in the law for effecting which, there was a clause of this sort. It is said that the price of two dollars will cause a settlement; then, said he, where is the harm of this clause? There is no forfeiture incurred in case of settlement. With respect to the regulation being a check to the sale, he believed it would be a salutary check. Large lots may be sold somewhat cheaper, but it would not affect the price of small lots. There might be a provision in case of an Indian war; the land, in that case, should not be forfeited for want of settlers. He referred to the practice in the State of New York, and was certain that this plan would eventually produce the most money, at the same time that it would insure a settlement. The lands should be paid for by instalments, and by being gradually brought in the market they would constantly rise in value.

Mr. DAYTON rose to explain, and again expressed his disapprobation of the amendment. He said non-residents might be taxed as high for their unoccupied lands as were the occupiers of improved lands, by which means they would be made to

contribute their full proportion towards the expense of making roads, bridges, &c.

Mr. COOPER wished to get a good price for the land, in order to pay the Public Debt; and, on this account, he hoped no discouragement would be thrown in the way of purchasers.

Mr. GALLATIN remarked that the member from New Jersey had said, the present amendment would reduce the price of the land. He thought differently. None would purchase but real settlers. Of course, a less quantity will be sold in any one year; but what is sold will command a good price. Instead of selling three millions of acres at two dollars the first year, perhaps one million might be sold at four dollars, and the remaining two millions, instead of selling for two, will bring four dollars, which will be the effect of driving those purchasers from the market who meant to purchase on speculation. The quantity of land to be disposed of, Mr. G. said, was about ten millions of acres, which, divided by 4,000, would make 2,500. But there would be no hope of getting 2,500 families on the lands in one year; but to sell one million of acres a year, it would be disposed of in ten years, by which means 1,000 families might be accommodated with 1,000 acres each, and the highest price be got for it that the land was really worth. With respect to the revenue, this plan will give to the Government all the profits of the speculator. Government would be, in effect, its own speculator. If the land, said he, was the property of a private individual, he would never agree to sell the whole in one year, when he knew that a large number of families would every year be in want of a portion of this land. Another objection is, that this regulation would amount to a bounty on emigration. An observation made by gentlemen who opposed the amendment, struck him with much force in favor of it. Say they, if you oblige purchasers to settle the land within a limited time, they may be obliged to give their land for nothing. He wished that might take place. If the cause of the happiness of this country was examined into, he said it would be found to arise as much from the great plenty of land in proportion to the inhabitants, which their citizens enjoyed, as from the wisdom of their political institutions. It is, in fact, said he, because the poor man has been able always to attain his portion of land. And it was perfectly immaterial to them whether a man was happy in New Jersey or upon the Western Territory, it was their duty to do all in their power to promote the general happiness of the whole country.

To resume, said Mr. G., the experience of a century might be called to prove that the happiness of this country had been promoted by regulations similar to that now under consideration. In New England no tract had ever been granted without an obligation to settlement. He thought therefore they ought not to part with such a provision on mere theory. The consequence would perhaps be, the price of labor would be kept up. He wished it to be so. It was not only a sure mark of prosperity, but afforded comfort to the poor man; it was his wish to increase rather than diminish that

comfort. He concluded by hoping the amendment would obtain.

Mr. N. SMITH said the proposed amendment in his opinion, would have no effect but to diminish the price of the land, and offer a premium to emigration. The advantage proposed by the measure is to drive all speculators from the market. He thought the argument ill founded. He said this clause would introduce considerable embarrassment into the business, and where there was any degree of embarrassment, the broader was the field for speculation. Speculators will still purchase, but at a price that will indemnify them against any contingency. For, suppose the land worth four dollars an acre, under these circumstances, not more than two or three will be given. Gentlemen suppose that, if this amendment takes place, every purchaser will go upon the land. No such thing will happen; a servant or tenant would answer the purpose. Advert to the bill, said Mr. S., and it will be seen that tracts are to be sold in lots of three miles square, by vendue, at the Seat of Government. The speculator comes forward, and every man who purchases will bear it in mind, that settlers must be upon the land in a certain time. This will not prevent the land from being sold, but it will diminish the price, and operate as an encouragement to emigration. He was surprised to hear that the gentleman who, a few days ago, had said he did not wish to encourage emigration, now supports a measure which seemed to have that for its principal object. He would have men emigrate to what place, and when they pleased, but would not offer them a premium for doing so.

Mr. NICHOLAS thought the clause proposed would be extremely discouraging to purchasers. The uncertainty of procuring settlers will deter moneyed men from adventuring their property in this land. He was of opinion it would have a tendency to put the land into the hands of speculators at a low price. The condition was an unreasonable one. Suppose, said he, a merchant was told by Government, you may import as many goods as you please, but if you have any left at the end of the year, they must be burnt; would he not think it a tyrannical decree? The object, if he understood it rightly, was to sell the land to emigrants going into that country, at as good a price as could be got, without throwing any discouragements in the way.

Mr. HAVENS understood the operation of the bill in this way: Government does not expect much above the minimum price. Ho that will first bid two dollars per acre will get the land. So that, when the land shall be thought to be worth this price, it will be sold to any person who bids it. He said the effect of a clause of the same kind with that under consideration had been tried in the States of Massachusetts, New Hampshire, and Vermont, and was found ineffectual. If he thought it would answer the purpose intended, he would vote for it; but he believed it would be a clog upon the sale, without any advantage. He was of opinion the wished-for effect might be ob-

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tained in a different way, and therefore this clause was unnecessary.

Mr. HILLHOUSE thought the gentleman from Pennsylvania was mistaken with respect to what he had asserted of the practice of the New England States. He believed the amendment would have a bad effect. The way in which the part of the country which he came from was peopled, was one part at once. If this amendment was adopted, what would be the consequence? Instead of the people who go upon the land being settled compactly, and in the neighborhood of each other, they will spread themselves over the face of the whole country, without the power of assisting or defending each other. He did not think this regulation would prevent the sale of a single acre, but lower the price, and the forfeiture never had, and never would be enforced. Indeed, it might create a war to attempt to dispossess persons of property they had paid for. He should have no objection to any clause which would confine settlers on small tracts to a particular part of the Territory.

Mr. FINDLEY observed, there were many different opinions on the subject before them. Some members thought to obtain money was the grand object; others had different views. He did not think the raising of money ought to be the leading object. He did not wish a single acre to be sold more than could be settled. He did not think the United States could have a greater advantage than to have a reserve of good land to offer persons who wish to emigrate. He thought the price fixed upon the land would be a check on the sale, and discourage emigration. Had gentlemen considered what they were about? Whether they were merchants, only to get money? Surely not; they had men, and the happiness of men in their view. On the frontier parts of the country, there is no greater unhappiness, said he, than that occasioned by the settling too widely, the settlers can neither make the necessary improvements, nor defend themselves; but by settling compactly, the inhabitants experience all the advantage of society, good schools, and everything desirable. He did not think the present amendment calculated to lower the price of the land; the price would advance by degrees. Why sell more lands than can be settled? To have them engrossed? This would be a great evil, and might have an effect on the happiness of the country, which could not be at present foreseen. The comparison betwixt a merchant selling goods, and a Government selling lands, would not hold. It is a sort of transaction which should always be kept in the hands of Government, and not in those of speculators; for, if speculators had the sale of the land, the price they would fix upon it would drive emigrants upon the territory of other countries, who hold out encouragements to receive them. The prospect of peace and security will have a considerable influence on the price of the land; he himself was fearful that the Indians would commit depredations on the frontiers.

He did not think the practice of the Eastern States practicable in this new country, but he

would have it approached to. He wished the land to be settled gradually, and that an effectual check might be put on the rage of speculators, which seemed to have no bounds. The most barren mountains were embraced by them. He thought it would be prudent to adopt the amendment as an experiment which would be perfectly safe; for, if the land was once engrossed, there would be no remedy. He said there were facts and experience in support of the proposition, and theory only against it. He should therefore vote for it, and trusted other checks would be provided before the bill passed into a law.

Mr. RUTHERFORD spoke again in favor of the amendment, and of the frontier inhabitants. Experience, he said, was vastly preferable to a fine spun theory. He hoped the mind of every member in that House was as pure as that of the great FRANKLIN, and he paid great attention to their sentiments, but experience taught him to differ from them on the present question. He had been acquainted with the frontiers, he said, fifty years, and had seen the country progress from woods to towns—he was reminded by the Chairman that there was a specific question before the Committee.) He wished, he said, to introduce his experience. He said the country would be settled, should be settled, and must be settled. The most untaught Indians were to receive information; it should be compactly settled by honest, respectable yeomanry; but will a man who has his land, his orchards, his gardens, in good order, pack up his all, and go to this new country? No; but he will send one or two of his sons. Gentlemen thought the country would not be sold. There was no doubt of it. He said the people of this country were doubled since the horrid, detestable war with England. The people were eight millions, at least; they increased like a bee hive. He was not, he said, for shutting out members of Congress from getting lots for their children, but he wished to discourage speculators.

Mr. MADISON was not surprised to hear different opinions on this question, according as members felt from the usages of the States to which they belonged. It was difficult to judge precisely betwixt different opinions, from the blanks of the bill not being filled up. Perhaps a good deal depended on the quantity of land to be offered for sale. Purchases made, he said, under a consideration that the land would be speedily settled, would be made at a higher price, and those made under an idea of a considerably distant settlement, would command a price in proportion. The principal object was to fill the Treasury as soon as possible. He believed the obliging of purchasers to settle land within a limited time would be an obstruction in the sale; but there were several considerations which ought to be weighed. If, by requiring actual settlers, they should repel a part of those who did not intend to settle themselves on the land, they might not repel others. Persons would be more ready to go into a wilderness, if they were assured of company. The amendment would have less effect in repelling large purchasers, than at first imagined. If persons knew when they

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purchased that they must provide settlers, they will see that a great advantage may arise from their enterprise, and will give a greater price. With respect to the policy of increasing emigration, there seemed to be a middle course. It would not be right, he said, to encourage emigrations, nor to throw obstacles in the way of them. He believed, with the gentleman from Pennsylvania, that if they were ever so desirous that emigrations should not take place to that country, it would not hinder them. He was opposed to a greater quantity of land being brought to market than could be settled. The consideration of settlement, he said, would be found to operate much less on the price than was supposed; he knew not whether it would increase the price. But as the subject was important, and greater light might be thrown upon the subject hereafter, he would wish the forfeiture of the land to be struck out, and left to be modified by the select committee.

Mr. HARPER said, when the amendment was first proposed, he thought it a good one; but, on more mature consideration, he found it would not only fail in producing the effect intended, but be pregnant with evil. The good effects proposed by the amendment were to restrict the quantity of land sold, and to accommodate that class of settlers who may be in want of land at a low price. The first object was of great importance. But does it not appear that, by limiting the quantity of land sold, it would have an effect to decrease the competition? Decreasing the competition will not decrease the quantity sold, but the price; for when the competition is greatest, the price will be highest. But if you subtract a certain number of purchasers, you leave the market open to a few bidders, you will get the land at a less price. The amendment must, therefore, produce a disadvantageous effect, as the same quantity of land will be sold, and less money produced. The next beneficial consideration was, to accommodate those persons who want lands, but cannot afford a high price. A certain proportion of citizens every year emigrate: some of them will be able to purchase, others must either obtain land at a low price or on long credit. If the sale be left unfettered, the competition will be increased by persons purchasing, who will be willing to accommodate this latter class of persons. As to that class, who purchase with a view of settlement, they can accommodate themselves. Persons, he said, who purchase at a high price, without this amendment, will be induced to settle the land as soon as possible. The amendment will tend to scatter settlers over the whole country; for if purchasers get land in quite opposite parts of the Territory, they will be obliged to settle it, whereas a person who might purchase lands at two dollars an acre in distant parts of the country, might not be very desirous of having it immediately settled. He believed these restrictions had been tried in different States, and it was found impossible to carry them into effect. If this was so, all the inconveniences of them would be experienced, and the proposed benefits lost. But he believed it was not the object of Government to

settle the whole of that country at present, as there remains yet much unappropriated land in the Atlantic States, which is in want of settlers. He believed when land could be purchased, for the purpose of actual cultivation, at two dollars an acre, it was a proof there was no want of land. And there was a certain proportion of population, he said, which was necessary to the happiness of society. While lands, therefore, could be purchased at this price in the neighborhood, he should not be for sending people into the back country. He was, on these accounts, against the amendment.

Mr. KITTERA thought the best price might be obtained by competition, and that driving out of the market many purchasers, would not increase the price of the land. Gentlemen have said that money is not the object, but settlement. Perhaps it was not correct to say that universal experience was in support of the present amendment. With respect to the State of Pennsylvania, the proprietors had never fettered land with conditions of this sort. It was true, they did at one particular time give improvers a pre-emption right, which was done to encourage emigrants from neighboring States, but, being found an injurious policy, it was given up. Since the Revolution, there was only one instance in which restrictions were made. He saw many evils that would arise from persons purchasing lands on the other side of the Alleghany mountains, as there were many persons at present settled on lands there. This kind of bounty, to encourage emigration, was not good policy. He said there were millions of acres in this State yet to be disposed of. He thought it necessary to mention these facts.

Mr. FIXDLEY went over the history of the settlement of Pennsylvania, in order to support the propriety of the proposed amendment, and to controvert some of the statements of the last speaker.

Mr. KITTERA said, it was agreed that a provision should be made that, in case of an Indian war, land should not be liable to forfeiture for want of settlement. This, it might be seen, would be a motive for purchasers to excite an Indian war.

The motion being put, it was lost, only twenty-two members appearing in favor of it.

Mr. NICHOLAS proposed to strike out the fourth section, and insert a clause for extending the time of payment to one quarter of the amount in hand, and one quarter each of the three succeeding years; which, after a few observations, was agreed to, with the amendment of a blank instead of the word *quarter*.

Mr. HARPER proposed the following resolution:

"Resolved, That payment shall be received for lands purchased in pursuance of this act, in certificates of such parts of the Public Debt as bear a present interest of six per cent."

Which, after a number of observations from different members, was negatived.

The sixth and seventh sections of the bill, on motion, were agreed to be struck out.

Mr. WILLIAMS moved to strike out the eighth

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section, which gave an opportunity to persons holding military warrants to pay them for one-seventh part of any purchase they might make of these lands, as giving too great an advantage to persons holding those warrants.

Mr. DAYTON said, it had been agreed by a former Congress, to set apart certain lands for satisfying military claims. Two millions and a half acres of that land had been taken away from the United States by the late Indian treaty, so that there was now an insufficiency to answer the claims. The committee appointed to bring in this bill thought some attention due to these claims. His opinion had been asked on the subject, and he had given it in favor of the plan proposed; and as there remains now only one million of acres, one half of which is good for little, to satisfy the military claims which was not more than half the necessary quantity, if all good, but being half of it bad, not more than one-fourth of what is necessary, he was persuaded that the committee would agree to do the claimants justice, by giving them a share in the present land. He owned he was, in some degree, interested in this subject.

Mr. KITCHELL spoke in favor of retaining this section.

Mr. WILLIAMS had no objection to grant the bounties mentioned, but it was never intended, he said, that these warrants should have the very best parts of this land. Suppose land sold for seven dollars an acre, (which he believed it would,) in every 700 acres, 100 would be paid for in warrants, which the soldiers had sold for a mere trifle. The honorable gentleman had said he felt himself interested. He, also, felt interested, but he wished to legislate for the whole. If there be not land enough set out, let more be appropriated; but to take one-seventh part of the price of this land in warrants, was giving a greater advantage to holders of warrants than ought to be given. He wished Government to be perfectly faithful, but he did not wish speculators to have an unreasonable advantage.

Mr. DAYTON said the plan proposed by the gentleman who spoke last would be more expensive than that proposed by the present bill, as two millions of good land must be set apart for the purpose. What does the argument, of military warrants covering land worth seven dollars an acre, amount to? If the purchaser, who had obtained military warrants from soldiers at a low price, comes into the market to buy these lands, will he not give more for them, knowing that his warrants will be taken in part payment, and thereby increase the price of the land? The fact was, he said, that whenever there were any alterations proposed, with respect to the late Army, they have always been injured. He referred to several instances as proof of his assertion.

Mr. HARPER said, that he was in favor of the section remaining in the bill, and upon the same ground as the mover alleged for striking it out, viz: for the advantage of persons holding military warrants. He thought the soldiers in the late Army had received too little recompense, and he

was glad when an opportunity presented itself of doing them justice: That these warrants should be received as part of purchases, would be advantageous to the sale of land, render the warrants valuable, and be a small reward for past services. Instead of voting to strike out, he should be for enlarging the provision, so as to give the holders, particularly original holders, the greatest advantage.

Mr. FINDLEY said, if he thought it would do service to soldiers, he should not object to the clause in the bill, but he did not know a single soldier who had one of them. He said there was already land appropriated for the purpose, and if not enough, he was willing to appropriate more. This is not the first time, he said, that they had heard the claims of soldiers, when the money was intended to go into the pockets of speculators.

Mr. DEARBORN said, that these lands were promised many years ago, and if soldiers have sold their warrants, it has been because their patience has been exhausted in waiting the fulfilment of the engagements of Government; but there are many who have not sold their warrants. Yet, said he, if we go on to put off the satisfying of these claims, it will induce those who still have warrants, to sell them for what they can get. In laying off two millions of acres more, in addition to the one million which remains, much time and expense would be thrown away. It might be said that his situation should prevent him saying much on that question. He thought it necessary, however, to deliver his sentiments on the subject.

Mr. DAYTON said that, as it had been doubted whether any warrants were now in the hands of the original holders, he rose to inform the Committee that he had forty-seven of these warrants belonging to officers and soldiers who had earned them with their blood and wounds. They were sent to him to have them laid upon the tract of land ceded to the Indians; but, said he, if confined to the single million of acres now only appropriated, the value of the warrants is gone. Is this the way, exclaimed Mr. D., in which gentlemen, under cover of preventing the advantage of speculators, would reward their brave soldiers! He had said he was interested, so he was; for he had a warrant in his own name, but not in the way in which the gentleman from New York was interested, for he knew not that he had served in the Army. He should speak his mind on the subject, he said, but would not vote.

Mr. COOPER spoke in favor of the clause of the bill.

Mr. FINDLEY said, no one intended to injure the Army. It was time enough to complain when injury was done. Members could not be supposed to injure the Army, because they did not choose to enter upon new plans, in their opinions calculated to favor speculators.

Mr. WILLIAMS said, in a debate of this kind, where all were interested, the less said the better. He should not have risen again, had it not been doubted whether he had served in the Army. He would inform the honorable gentleman that he had so served; that, for many years, when he lay

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down on his bed, he seemed yet to have arms in his hands. He said, in the State of New York, warrants were bought for a mere trifle; he had bought some of them. All that can be demanded, was a faithful discharge of the obligation of Government. It had been said that the admission of these warrants would increase the price of the land, but he did not think so; it would increase the price of the warrants only. If, said he, a discrimination could be made between real holders and purchasers, he would go any length in satisfying the claims of the soldier.

Mr. KITCHELL spoke in favor of the clause of the bill.

The Committee now rose, reported progress, and the House adjourned.

THURSDAY, March 4.

It was moved and carried that the unfinished business should be postponed to take up the bill providing for a partial appropriation towards the Military Establishment for 1796, when the House resolved itself into a Committee of the Whole, and reported the bill without amendment. It afterwards went through the House, and was ordered to be engrossed for a third reading on Monday.

Mr. LIVINGSTON moved that the unfinished business might again give way, to take up the consideration of the resolution laid upon the table on Wednesday, requesting the PRESIDENT OF THE UNITED STATES to lay before the House certain documents relative to the Treaty lately concluded between this country and Great Britain; but, on being informed by members near him, that the going through the Land Office bill would take up but little time, he consented to withdraw his motion.

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The House then resolved itself into a Committee of the Whole, on the bill for establishing Land Offices for the sale of the Northwestern Territory, when the motion for striking out the section allowing military warrants to be received as one-seventh part of a purchase, being put, was lost by a considerable majority.

Mr. DAYTON (the Speaker) wished to introduce an amendment in the section respecting the allowing of a certain portion of military claims to be received, viz: to strike out the words 'one-seventh,' and introduce 'one-sixth.' His reason for making this amendment was, that he had found, on inquiry, that a great part of the million of acres mentioned yesterday, as remaining towards satisfying military claims, was also ceded.

Mr. WILLIAMS said he should oppose that amendment when the bill came before the House; for the present he should waive his objections.

Mr. DAYTON wished the gentleman, who seemed to be principally opposed to this clause, would state his objections now, that he might have an opportunity of replying to them, as, when the bill came before the House, he should be in a situa-

tion which would deprive him of the opportunity of doing so.

Mr. NICHOLAS observed that the bill would again come into a Committee of the Whole.

Mr. KITCHELL proposed to amend the motion by striking out the word "seventh" and leaving it blank; which was agreed to.

Mr. NICHOLAS moved a clause to this effect: "that the Attorney General shall superintend the Land Office at the Seat of Government of the United States, and that the PRESIDENT be authorized, by and with the advice and consent of the Senate, to appoint an agent for the sale of the lands in the Northwestern Territory."

Mr. W. SMITH wished the motion to be divided. He had no objection to the latter part of it, but a very material one to the former. It would require consideration how far they could with propriety lay this duty upon the Attorney General, as it was not contemplated in his appointment. It would also involve personal considerations as to the fitness of the officer alluded to for the business. Besides, he said, it would be interfering with the duties of the Executive to appoint a superintendent under this bill—a power which, he conceived, was vested in the PRESIDENT to nominate and the Senate to appoint. The Attorney General, he said, had special duties to perform, and he did not think he would have leisure sufficient to attend to this subject. Besides, not being sufficiently compensated by the United States, he was obliged to follow his own practice, with which an appointment of this kind would interfere. He thought the business of the Land Office would require all the attention of a special agent, and that it would be impossible to be transacted by any existing officer. It was true, for the first year, there might not be much to occupy an agent, but afterwards the business would be very considerable. He moved, therefore, to strike out the first part of the proposition.

Mr. NICHOLAS thought the objections urged against his motion of little weight. They went to this, that whenever Government wanted any new service performed, a new officer was to be employed, though it were not calculated to employ one-tenth part of a person's time. If they went on multiplying officers, he said, the United States would scarcely hold them. Congress had already acted upon a similar plan to that which he proposed with respect to the Sinking Fund. The office, he said, would be a mere superintendence. But they were told that, though there was not business at present, there would be sufficient to employ an agent wholly a year or two hence. He would say that the officer he mentioned was competent to the duties. It had been said that he had not sufficient emolument. Suppose, then, they were to add to it \$1,000 or \$1,100 for doing this new business. To this, he said, he would pledge himself, that he would do the business well, or say he could not do it.

Mr. VAN ALLEN observed that it had been said, that though the business will not at present fully employ an agent, it will do so hereafter. He thought it never would be sufficient to employ a

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special agent. If the present motion did not prevail, (which he wished might not,) he read one which he intended to move in its place. He was of opinion that all money paid for land should be paid into the Treasury of the United States, and that the Secretary of State, by keeping an additional clerk, might superintend the business. He did not think there was either occasion for two officers, or for one; but that the business would be much cheaper and more regularly transacted in the way he proposed.

Mr. NICHOLAS said his only view was to prevent a special officer from being appointed. He had no objection to leave the officer a blank, so that any existing officer might be employed.

Mr. W. SMITH said his objections were stronger than before to the motion; for, if any officer was employed, he would prefer the Attorney General, but objected to the House filling the office at all—it was not their business. He would much rather agree to the proposition of the gentleman from New York. The gentleman from Virginia had referred to the Commissioners of the Sinking Fund as a proof of the interference of that House in the appointment of officers. There was a material difference between the two cases, though he did not approve of the practice in that instance. He understood they were to give a salary, declare who should be superintendent, and, by saving a few hundred dollars, perhaps have the business ill done. If the salary of the Attorney General was not sufficient, he would consent to give him more. But, said he, does not the present proposition lead to a species of favoritism, of selecting particular officers for duties, to increase their salaries? He wished to have the business done either in the Department of State, or appoint a special officer to do it.

Mr. FINDLEY thought the business of the Land Office ought not to be connected with that of the Attorney General; for, said he, it might happen that the Attorney General would be wanted to prosecute the agent, which, if they were united in one person, it would be seen could not be done. It would be best, he was of opinion, to lay the duty on the Treasury or Secretary of State.

Mr. W. LYMAN saw nothing inconsistent in laying the duty upon some existing officer, as there could not be sufficient business for a special agent. He mentioned several instances in which this practice had been followed. Indeed, he said, it was the first time he had ever heard of the principle being controverted. He did not know whether the business might be referred to the Commissioner of the Revenue, if the Attorney General declined it.

Mr. GALLATIN apprehended that the objection of the gentleman from South Carolina to the motion went more to the manner than the substance. His objection is, that it is an assumption of power in this House to appoint an officer. No motion, he said, had been made to strike out the first section of the bill. That section goes to the establishment of two offices. [The Chairman said that the first section of the bill had been passed over by consent, but he understood it was to undergo

amendment.] Notwithstanding that, Mr. G. said, it was at present a part of the bill. It appoints officers. He believed that House had no right to create new officers, but they might lay new duties upon old officers. The President had not only the power to appoint, but to remove officers; and, therefore, if he thinks the officer incompetent to fulfil an office he may remove him. The motion of the gentleman from Virginia was not so much to appoint a new officer as to lay new duties upon some existing officer. He wished an alteration to take place in the motion so as to conform to that idea.

Mr. NICHOLAS acknowledged the justness of the last member's observations, and said, the first section remaining in the bill was the cause of his putting his motion in the form in which he brought it forward.

The motion for striking out a part of Mr. NICHOLAS's motion was put and negative; and, on the original motion being put, it was lost—there being for it 85, against it 38.

Mr. KITTERA moved the following clause to the second section: "Provided that the real, and not the magnetical points shall govern the survey."

Mr. VAN ALLEN thought that this amendment would make the survey liable to many difficulties.

Mr. KITTERA said he was not a practical surveyor. He had however conferred with men very able to give him information on the subject, and was informed that this method of surveying would be of essential service. The lines run in this way would be certain and permanent, and as easily run as magnetical ones, which were subject to the variation of particular compasses, and that other variation which takes place at different times and in different places, which has not yet been satisfactorily accounted for.

Mr. GALLATIN thought there could be no objection to the amendment. He supposed that the Surveyor General would have had this power, if it had not been provided for. He said it was impossible to survey exactly by the magnet, as they varied from each other, and from year to year.

Mr. FINDLEY hoped no one would be prevented from voting for this clause from an idea of difficulty. He said the art was so easy as to be taught to any surveyors of moderate capacity in one evening. He was, therefore, for the motion.

Mr. PAGE said, that except this plan of surveying was adopted, great confusion might be introduced into the business. He believed the plan was perfectly practicable, and would be attended with the greatest advantage. The motion was carried.

Mr. VAN ALLEN proposed a section in place of the first, which, after some discussion and alteration, finally took the following form:

"Be it enacted, &c., That a Surveyor General shall be appointed, whose duty it shall be to engage a sufficient number of skilful and expert surveyors, to enable him on or before the — day of — to ascertain the outline of all that part of the land lying Northwest of the river Ohio, in which the title of the Indian tribes is extinct, and which have not already been disposed of by the United States, and to lay out the same in manner hereafter directed."

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Treaty with Great Britain.

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The Committee having gone through the bill, rose and reported the bill with its amendments. The House then took it up, and went through the bill and amendments, which were all agreed to, without debate, except that appointing the method of surveying, which met with considerable opposition, but which was finally agreed to.

The bill was then recommitted, and four members added to the select committee to whom it was referred.

COMPENSATION TO MEMBERS, &c.

A communication was received from the Senate, with a bill, which originated there, for the relief of persons imprisoned for debt; which was read a first time. Also, the bill for allowing compensation to members of both Houses, &c., which they had agreed to with one amendment, viz: the striking out the word *next*, and inserting in its place *in the present year*.

REGULARITY OF MAILS.

Mr. W. SMITH said frequent complaints had been made of the miscarriage of letters to and from the Southern States, and it was of considerable consequence that these miscarriages should be remedied. He believed the Eastern mails were very regular, and it was a desirable thing to have the Southern equally so. In order to inquire into these complaints, he proposed a resolution to the following effect, which he wished to be referred to the proper committee:

"Resolved, That the committee to whom is referred the business relative to Post Offices and Post Roads be directed to institute an inquiry whether any, and what, impediments exist in the conveyance of the Southern Mail, and, if any, the cause thereof."

This resolution was agreed to.

THE SON OF LAFAYETTE.

Mr. LIVINGSTON laid a resolution to the following effect on the table:

"Resolved, That a committee be appointed to inquire whether the son of Major General Lafayette be within the United States, and also whether any, and what, provision may be necessary for his support."

A resolution was also laid on the table respecting a tract of land purchased by John Cleves Symmes, in the Northwestern Territory.

MONDAY, March 7.

A petition of the proprietors of a glass manufactory of Boston, praying for a bounty, or such other assistance as Congress might please, for the encouragement of their manufactory, and an additional duty on all window glass imported above a certain size, was read and referred to the Committee of Manufactures and Commerce.

A communication from the Secretary of the Treasury, enclosing certain statements in pursuance of resolutions of the House, prepared by the Commissioners of the Revenue, respecting the Internal Revenues of the United States, with his report explanatory thereof, was read and ordered to be printed.

The bill for making a partial appropriation for the Military Establishment of 1796, was read a third time and passed.

The bill for the relief of persons imprisoned for debt, was read a second time, and ordered to be committed to a Committee of the Whole.

Mr. TRACY moved that several reports of the Committee of Claims on the cases of invalids, might be taken up, in preference to the unfinished business before the House.

AMERICAN SEAMEN.

Mr. HARPER thought it necessary to make a correction of what he had said on the debate respecting the subject of American sailors. He had said that Mr. Cutting had never released one seaman, whereas he has since found by a report on the subject, that he obtained the release of many. He had also seen a copy of a letter from Major Pinckney, in which it is said that considerable services were done by him to American seamen. He mentioned these circumstances in order to do away any impressions that might have been made by his assertion in the late debate.

THE TREATY WITH GREAT BRITAIN.

Mr. LIVINGSTON wished, before that business was gone into, to take up the consideration of the resolution which he laid upon the table some days ago respecting the gaining of information from the President on the subject of the Treaty; but if the House did not wish immediately to take up the subject, he hoped he might be permitted to make an amendment to the resolution, which had been suggested to him as proper, by gentlemen for whose opinion he had a high respect, in order to prevent any embarrassment in the Executive on account of any papers which he might not think proper to give up as relating to some existing negotiation; he therefore proposed the following exception to follow the resolution:

"— excepting such of said papers as any existing negotiation may render improper to be disclosed."

After a few observations from different members on the propriety of taking up the consideration of the resolution, it was determined first to go into the business proposed by Mr. Tracy, and the amended resolution was laid on the table.

CLAIMS OF INVALIDS.

The House having formed itself into a Committee of the Whole, the report of the Committee of Claims on the cases of invalids, which allows them such a proportion of relief as their different cases appeared to merit, was read and agreed to.

Mr. TRACY said that the committee had allowed a number of claims, though claimants had not in every instance complied with the necessary regulations in every particular, being of opinion that the failures had not arisen from any intention of evading the law, but from a want of knowledge. Considering that the testimony which they had provided must have been attended with much difficulty and some expense, and that as the law soon ceased to exist no further claims could be made, they thought it best to place them on the list.

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There was, however, one class of claimants which they could not place on the list, as the examining physician had omitted to make a return of the ratio of their disability. The committee had provided a resolution to give them an opportunity of making good their claims, and that they may not suffer by an omission of the physician, they recommended that their allowance should take place from the time they had completed the testimony on their part.

The House went through the consideration of the report, which was agreed to, as follows:

Resolved, That the Secretary of War be directed to place on the list of invalid pensioners of the United States, at the several rates annexed to their names, respectively, the following persons, viz: [Here follow the names.]

And that the Secretary of War be guided by the following rules, viz:

A full pension to a commissioned officer shall be considered the one-half of his pay. And the proportions less than a full pension are to be the proportions of half-pay.

A full pension to non-commissioned officers, musicians, and privates, is to be five dollars per month; and the proportions less than a full pension are the proportions of five dollars per month. The pensions shall be paid in the same manner as invalid pensioners are paid, who have been heretofore placed on the list, and under such restrictions and regulations, in all respects, as are prescribed by the laws of the United States in such cases provided.

2. *Resolved*, That the Secretary of the Department of War do also cause to be placed on the pension list of the United States the following persons, at the rates annexed to their names, respectively: [Here follow the names.]

And that a full pension to a commissioned officer shall be considered the one-half of his pay at the time of being wounded, and the proportions less than a full pension are those of such half-pay. And that a full pension to a non-commissioned officer and private is five dollars per month, and the proportions less than a full pension are the proportions of five dollars per month. The pensions to be paid in the same manner as invalid pensioners are paid, who have heretofore been placed on the list, under such restrictions and regulations, in all respects, as are prescribed by the laws of the United States in such cases provided.

3. *Resolved*, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary for the Department of War return to the respective District Judges the names of all such persons as have been transmitted to him by the several District Judges, pursuant to the act for the regulation of claims to invalid pensions, and in whose cases the examining physicians have neglected to specify the ratio of disability, together with such defective returns of physicians.

And the said District Judges, respectively, shall forthwith cause the examining physicians to specify the several rates of disability which have been so neglected; or, in case of sickness, death, or removal of one or both such physicians, to make new appointments, and cause the several rates of disability to be specified, and by the same physicians returned to them as soon as may be; of which they shall make return to the Secretary of War, who shall, at the session of Congress holden next

after, or at the time of such receipt, make return thereof, with such observations as he may think proper to subjoin, that the proper order may be taken thereon by Congress.

Ordered, That a bill or bills be brought in pursuant to the first and second resolutions, and that the Committee of Claims do prepare and bring in the same.

THE TREATY WITH GREAT BRITAIN.

[The debate on the subject of the Treaty with Great Britain, and of the Constitutional powers of the House with respect to Treaties, having occupied the time of the House nearly every day for a month, (commencing the 7th of March and ending on the 7th of April,) it is deemed preferable, and as being more acceptable to the reader, to present the whole in one body consecutively, rather than to spread it in detached parts intermixed with other subjects, through the general proceedings of each day. This debate, as here given, possesses a character for authenticity and correctness which does not belong to the Newspaper reports of the day, it having undergone the careful revision of the speakers themselves. The debate which took place on making provision for carrying the Treaty into effect, will be found subsequently, in the proceedings of each day as the subject came up before the House.]

On the second of March, Mr. LIVINGSTON, after stating that the late British Treaty must give rise in the House to some very important and Constitutional questions, to throw light upon which every information would be required, laid the following resolution upon the table:

"Resolved, That the President of the United States be requested to lay before this House a copy of the instructions to the Minister of the United States, who negotiated the Treaty with the King of Great Britain, communicated by his Message of the first of March, together with the correspondence and other documents relative to the said Treaty."

MARCH 7.—Mr. LIVINGSTON said he wished to modify the resolution he had laid on the table, requesting the PRESIDENT to lay before the House sundry documents respecting the Treaty. It was calculated to meet the suggestions of gentlemen to whose opinions he paid the highest respect, and was founded in the reflection that the negotiations on the twelfth article were probably unfinished; and therefore, he said, a disclosure of papers relative to that or any other pending negotiation, might embarrass the Executive. He wished, therefore, to add, at the end of his former motion, the following words: "Excepting such of said papers as any existing negotiation may render improper to be disclosed."

The motion of Mr. LIVINGSTON was then taken up.

Mr. TRACY requested gentlemen in favor of the resolution to give their reasons why the application for papers was to be made. The member from New York, he said, when he laid the resolution on the table, had intimated, that probably the constitutionality of the Treaty might be questioned, and predicated his resolution upon that

supposition. It was well understood, he remarked, that the Treaty had excited great sensibility; the people had formed various opinions on the subject; he conceived it, therefore, a subject of great delicacy and magnitude, and was of opinion, that members should explain fully their meanings and intentions with respect to it at an early stage of the business, to prevent any bitterness from taking place in the course of the investigation, and to preserve the harmony and dignity of the House. He asked the motives that influenced the friends of the resolution, because, if the constitutionality of the instrument was to be questioned, and the papers were called for on that ground, he thought it a bad one. This question, he conceived, should be decided by comparing the instrument with the Constitution, and that a reference to any thing else in deciding the question could not be proper.

If the papers are called for to ground an impeachment against any officer, he wished the intention declared; he wished to know whether the negotiator was to be impeached, or the PRESIDENT, who had certainly had a principal agency in the business. He wished to be possessed of the reasons which urged the motion, that he might be enabled to determine on its propriety. This was a delicate subject he said: the calling for papers appeared to bear evidence of some retrospective intention; he desired to be apprised what that was. He conceded the right of the House to pass the resolution, but they could not do it without good cause. He did not accuse the gentleman who made the motion, of making it without good cause, but was anxious to know what he would do with them. Was it intended to ascertain, he asked, whether a better Treaty might be made? He concluded by observing, that the question was of consequence, and by reminding the House, that they acted for a great people, and for posterity.

Mr. LIVINGSTON said, he had no wish to conceal his intentions. The motives that impelled him to make the motion, were not such as to make him wish to conceal them, or such as he ought to blush at when discovered. The gentleman from Connecticut wished to know why he had brought this resolution before the House? He did it for the sake of information. That gentleman wished to know to what point this information was to apply? Possibly to all the points he had enumerated. It was impossible, however, to say to which or how many of these points without a recurrence to those very papers. He could not determine now, he said, that an impeachment would be deemed advisable; yet, when the papers are obtained, they may make such a step advisable. It was impossible to declare an impeachment advisable, without having the necessary lights as to the conduct of officers. The House were, on every occasion, the guardians of their country's rights. They are, by the Constitution, the accusing organ of the officers employed. The information called for they ought to possess, as it would tend to elucidate the conduct of the officers. His principal reason, however, for proposing the measure, was a firm conviction that the House were

vested with a discretionary power of carrying the Treaty into effect, or refusing it their sanction. To guide them in an enlightened determination as to that point, the papers are necessary; they would certainly throw light upon the subject, and enable the House to determine whether the Treaty was such as that it ought to be carried into effect. This had been called a delicate question. He did not view it in that light. The House had a right to call for the information: if the PRESIDENT had any reasons of state that would make the information improper, he would say so.

Mr. W. LYMAN observed, that the mode of argument adopted by the gentleman from Connecticut, of inquiring into motives which influenced others, might easily be retorted. The gentleman might now be called upon to state his motives, with the objections, if he had any, to the resolution. The gentleman had done neither: he had not offered even one objection why the resolution ought not to pass. If no objections could be offered, Mr. L. said it was conclusive proof in its favor, and that those were weighty considerations why it should pass. However, he said, he was very willing to mention some which had occurred to his mind. It was a matter of great notoriety that the Treaty referred to in the resolution had excited very strong emotions of sensibility, and that the public mind had been greatly agitated; that petitions had been presented, from all parts of the Union, praying for the interposition of the House upon that subject. Perhaps if the information contained in the papers called for, was made public, the anxiety which had manifested itself would be allayed. Possibly they might throw such light as to produce a very great degree of unanimity relative to that instrument. Such circumstances might possibly be disclosed as to reconcile those now opposed to it, and who might otherwise remain irreconcilable. If the resolution tended only to this object, it was effecting a valuable purpose; but there was, he said, another consideration of vast importance, which was, whether the Treaty had not encroached upon the Legislative powers of the Constitution. As to that point, he would admit the papers could not be expected to give much light. But if the House should conceive their Constitutional powers extended to a consideration of the subject, undoubtedly they ought to be in possession of the papers in question, and all the information relative thereto. Unless some very formidable objections should be brought forward against the resolution, which, hitherto, Mr. L. said, had not been suggested to him, he should vote for it, and hoped that the House would be of the same opinion; for he contemplated that it would be productive of great utility, and, as yet, foresaw not the smallest disadvantage that could in any way accrue.

Mr. GILES acknowledged that it was a subject that had excited much sensibility, and for this very reason conceived it claimed every light that could be thrown upon it. He believed that that sensibility would be increased if information was denied, and, possibly allayed if obtained. If the resolution passed, the grounds of the proceeding

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would then become known; and, if they were such as comported with the interests of the United States, the dislike to the Treaty might subside. On this ground he should give the resolution his vote, unless weightier objections than those already adduced could be brought forward. If the Treaty is to be judged of by adverting to the instrument alone, there was great cause for dislike. If it is possible to throw light on it, that shall be its apology, why refuse the information? He did not wish to pass judgment on it without knowing the circumstances under which it was made. Impeachment had been mentioned: such an event was not a necessary consequence of the inquiry, though a possible one. He did not contemplate it as the probable issue, but the information might tend, perhaps to reconcile those now averse to the instrument. On this ground he hoped gentlemen would not object to the information being called for. A member conceived the friends of the resolution ought to declare what they intended to do in the business. He believed this would be a candid course of procedure. For his own part, if he was to make up his judgment definitively upon the face of the instrument alone, he was prepared to give his opinion; but he wished further information, which he hoped would not be refused by negating the present resolution. He observed, that with him information was the object of the call, and a sense of responsibility the inducement.

Mr. MURRAY said, that he was against the resolution for two reasons, which then struck his mind forcibly: The first was the want of a declared object within the acknowledged cognizance of the House; the other was because he believed it was designed as the ground-work of a very dangerous doctrine, that the House had a right to adjudge, to adopt, or to reject treaties generally. Had the gentleman stated the object for which they called for the papers to be an impeachment, or any inquiry into fraud, as a circumstance attending the making of the Treaty, the subject would be presented under an aspect very different from that which it has assumed. He considered a Treaty, constitutionally made, to be the supreme law of the land. The Treaty in view has been negotiated and ratified, he thought, agreeably to the Constitution. It has been issued, by the PRESIDENT's proclamation, as an act obligatory upon the United States. If the House mean to go into the merits of that instrument, and the information be called for with that view, he should feel himself bound by the Constitution to give it every opposition. If the PRESIDENT, by the Constitution, has the power, with the consent of two-thirds of the Senate, to ratify a Treaty, the House has no right to investigate the merits of the Treaty, unless they have the right to reject it. Treaties are the supreme laws of the land. Powers are delegated to these two branches of the Government distinct from those lodged in this House. As long as they exercise these powers agreeably to the Constitution, their acts cannot be controlled by this House; for it would be a solecism to say that full powers are given to

two branches upon a given subject, and yet a power is elsewhere lodged to annul the acts which proceed from these powers. He considered the resolution as unconstitutional, as it is predicated upon the right of this branch to intermeddle with the proceedings of the other branches on this point, not alleged to be unconstitutional.

If there is to be investigation on the Treaty, the inquiry must stand upon the allegation that the Treaty is contrary to the Constitution; and then, if that could be proved, it would not be the law of the land. Of the inexpediency of the resolution he was well convinced, as it affected the secrets which ought to be kept from foreign Powers. It might lead to a disclosure, to foreign nations, through this House, of certain points in our foreign relations, and in the estimate of our own domestic interests, that might do us mischief. There might be, in negotiations, transactions, which, to expose, would be a violation of good faith. He did not imagine that there were such in the negotiation of this Treaty, but the right is claimed thus over all similar cases.

Mr. M. was proceeding in some remarks respecting the powers of the Senate, when the SPEAKER interrupted him, and reminded Mr. M. that no observations respecting the independent rights of the Senate could be in order.

Mr. BUCK said: I am opposed to the resolution now under consideration, not from an apprehension that the papers referred to will not bear the public scrutiny, or from a belief that there would be the least reluctance on the part of the Executive to deliver them on account of any such apprehensions of his; but I am opposed to the resolution in point of principle, because I conceive those papers can be of no use to us, unless to gratify feelings of resentment or a vain curiosity. As I would never sacrifice principle to these motives, and thereby fix a precedent pernicious in its consequences, I hope for the indulgence of the House while I offer my sentiments upon the subject.

In order to determine the propriety of the present measure, I think it necessary to take into view the present existing state of the Treaty, and to consider what binding force, if any, it now has; what benefits can be derived from those papers to effect an alteration, and what powers we possess to call for them.

The Treaty is negotiated, assented to by the Senate, ratified by the PRESIDENT, the ratifications exchanged. It is now promulgated, communicated to us, and the PRESIDENT has made solemn proclamation, enjoining it upon all persons bearing office, civil or military, within the United States, and all other citizens or inhabitants thereof, to execute and observe the same. Was this the proclamation of GEORGE WASHINGTON, considered as a man, detached from the powers vested in him by the people, it would excite ridicule. Was it the proclamation of a King or Despot, who arrogated to himself the right of dictating laws to men without their consent, it would excite contempt; and if it is in fact the proclamation of the PRESIDENT OF THE UNITED

STATES, who, under color of his office, has assumed powers not delegated to him, it must excite indignation. But, if it be neither of these, but is, indeed, the voice of United America, sounding through the PRESIDENT, as the only organ of the nation in this particular case, this gives it a different stamp, and in this sense, to me the sound is as heavy as thunder, majestic as Heaven, and the height of treason to disobey it.

But suffer me to solicit the attention of this House while I premise a few things, before I immediately apply my observations to the point in question. For what did America contend; for what did she endure the toils of war, and sacrifice thousands of her citizens; for what did many members within these walls endure the same fatigues of war, stem the rage of battle, and shed their own precious blood? I believe every mind will accord with me when I say, that it was to cast off the oppressive power of a nation which, being detached from us, usurped and arrogated to herself the right of dictating to us laws, contrary to our will, while we had no voice in passing those laws through the medium of our Representatives; and to gain to ourselves the important right of self-government. Our success was equal to the magnitude of the object; we gained the glorious prize; liberty and peace succeeded war; the ferocious and turbulent passions were lulled to rest; and, in 1787, free and united America, undisturbed by factions within, unawed by foes without, was seen exercising her cool, dispassionate reason, that divine gift of God to man, in concerting and framing a system to perpetuate to herself and posterity, the glorious prize she had won, the invaluable blessing of self-government, founded on the dispassionate will of the great body of the sovereign people. Three great objects met her attention; first, rules to check the licentious wickedness of individuals, and mark out their separate rights; second, intermediate Judges to apply those rules; and, thirdly, negotiations, compacts, and Treaties, with foreign nations. It being impossible for the great body of the people to collect individually to perform those necessary functions, they frame a Constitution in which they express their will in respect to each; they constitute the Legislative, Executive, and Judiciary departments; mark out and assign to each their separate and distinct powers, and place them as the three great organs through which the future will of the people is to be known in respect to those great functions. The Constitution is then, emphatically, the expression of the will of the great body of the sovereign people, and while Government moves on conformably to it, we may with the utmost propriety say, that the laws dictated by the will of the people reign, and not men or kings, and this is in the strictest sense of the word self-government, so far as it can apply to a nation; but if we depart from this basis, then may it be said that men reign and not the laws; the will of the people is then abandoned, and the glorious rights for which we have contended, sacrificed and lost. Let us then take the Constitution as our only guide, and see with what authority this Treaty has been made.

In the first section of the second article of the Constitution, it is declared, that the Executive power shall be vested in a PRESIDENT OF THE UNITED STATES of America. In another clause of the same section it is declared, that before he enters upon the execution of his office he shall take an oath, that he will faithfully execute the office of PRESIDENT OF THE UNITED STATES, and will, to the best of his ability, preserve, protect, and defend the Constitution of the United States; and in the second section of the same article it is declared, that he shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur, and that he shall nominate, and, by and with the advice and consent of the Senate, shall appoint Ambassadors, other public Ministers, and Consuls; and in the sixth article it is declared, that all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land. By these passages I conceive that the will of the sovereign people is clearly expressed; that the PRESIDENT and Senate should stand as their Representatives, fully authorized by them to make Treaties, and are vested with every necessary requisite power for that purpose; that they are placed as the organ of the nation, through whom the will of the people is to be known in relation to all those compacts, and it is equally clear that if they have kept within the bounds prescribed by the Constitution, the Treaty now in question has become a supreme law of the land, and that agreeably to the express and dispassionate will of the great body of the sovereign people.

I will admit, that if the PRESIDENT has assumed powers not delegated to him by the people in making and proclaiming this Treaty, it is void in itself; but of what use can those papers be to us in determining that question? Are we to explain the Treaty by private and confidential papers, or by anything extraneous to the instrument itself? I conclude not. The instrument is then before us; let us compare it with the Constitution and see if there is one article, sentence, word, or syllable in the Treaty, which clashes with, or is contradictory to, the Constitution. This is an inquiry I will pledge myself not to oppose; but for this, these papers can be of no use.

But if we are to take upon ourselves the right of judging whether it was expedient to make the Treaty or not; whether it is as good a one as might have been obtained or not; and if we are to assume the power of judging upon the merits as well as the constitutionality of it, then those papers may be necessary, and if we possess the power of thus judging, then we equally possess the right to call for those papers. But from whence do we derive this right and power? Have the people when coolly deliberating upon and forming the Constitution, which is the expression of their dispassionate will, in that Constitution, given us this right? No, not a syllable in the Constitution that even intimates the idea. Do we possess the right merely because we are the Representatives of the people? No, that cannot be

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for we are their Representatives only for particular purposes, and the Constitution has prescribed to us our bounds, and assigned to us the limits of our powers as well as to the Executive. Are we to derive this right from popular opposition to the Treaty, and from thence say, that it is the will of the nation that we should exercise this right of inquiry? Is then popular clamor, which originates in discontent, is fostered in violence and passion, and stimulated by the intrigues of interested and ambitious individuals, to be taken as the dispassionate will of the nation? If so, how are we to designate and mark out the numbers of the discontented? Are we to learn it from inflammatory newspaper publications, teeming with invectives against Government and its measures, and not carrying even the appearance of reason with them? These can furnish no data by which to determine whether it is one-tenth or even one-thousandth part of the nation that are dissatisfied. Are we to learn it from the petitions now before us? If so, the petitioners do not constitute one-thousandth part of the nation; and I presume, as those petitions have all one stamp, the petitioners are all in unison of sentiment; if so, I have a specimen of their ideas: the resolution of Bennington County Convention, transmitted to me, goes no farther than to request the Representatives of that State to use their best endeavors to bring on a discussion of the constitutionality of the Treaty; it does not even suggest the idea that we have or should exercise the power to call for those papers, or judge upon the expediency or merits of the Treaty. Shall we then assume the power, and go even beyond the wishes of the discontented? If so, where shall we stop? If we, by an assumption of power, may invade the prerogatives of the people vested in the PRESIDENT, as their representative in making Treaties, and may rifle the sacred deposit of their confidential correspondence with foreign nations, and judge upon the merits of a Treaty, then may we reverse the judgment of the PRESIDENT and Senate, and annul the Treaty. Who is, then, to make the next? Is it supposable that the PRESIDENT will again attempt it, when the principle is fixed, that he and the Senate are not the ultimate judges of its merits? No; to me this is absurd. We must, then, take the whole business to ourselves, and become the negotiators as well as the ratifiers of a Treaty; and if we may do this, upon the same principle, whenever there shall be a popular clamor raised against the persons appointed to the Judiciary department, we may interpose, call on the PRESIDENT for the reasons of his making the appointment, declare it injudicious, withhold appropriations for the salaries, and engross all the Judiciary powers to ourselves. Upon the same principle we may ultimately determine upon our own adjournments, declare our sittings perpetual, constitute ourselves the judges and executioners of the law, and become the accusers, judges, and executioners of our fellow citizens. This would be forming an aristocracy with a witness; and where, then, would be the boasted rights of America, for which she fought and bled? These are the con-

sequences to which the principle involved in this resolution would lead.

But suffer me to reverse the tables, and consider this subject in another point of light. Let us suppose every word in the Constitution which now applies to the PRESIDENT making Treaties applied to us, and that all the powers which now apply to us, as a Legislature, applied to the PRESIDENT. This, I think, is a fair way of examining the subject; for when, in imagination only, we consider ourselves as clothed with those powers, it cannot be supposed we shall instantly attach to the idea those prejudices which, after a long exercise of those powers, we might possess. Then, considering ourselves as having those Constitutional powers, let us suppose that we had made and ratified the present Treaty, and made the same Proclamation the PRESIDENT has done, and which had been signed by the Speaker of this House; and had called on the PRESIDENT to pass the necessary laws to fulfil the stipulations, and then suppose he had done as we are now about to do—called on us for the instructions we gave our agent, and the correspondence held while the Treaty was negotiating. Let every member now present reflect and determine for himself what our feelings would then be upon the subject. Would not our keen sensibility be as much raised as when our virtue was assailed by the contaminating breath of Randall? Should not we consider it as an insult to the majesty of the people, which so conspicuously shone through us as their Representatives? Should not we then say he was assuming powers not delegated to him; that he was invading the prerogatives of the people vested in us, and rifling the deposits of their national correspondences? Should not we embrace every idea which I have suggested upon this subject as now applying to the PRESIDENT? Would it not be said, he was aiming to engross all the powers of Government, and to set himself up as a despot? Would not his insolence, resound from every side of these walls, be bandied about from one end of the Continent to the other, and wafted even into distant climes? Nay, should we not go further, and say, that as the Constitution had vested in us the power to make Treaties, it had also necessarily given us the sole right of judging, not only of the merits, but also of the constitutionality of them? Should we not say, the people, by giving us the power, had thereby decided the point, and determined us as being the best and ultimate judges; and that it was not for the PRESIDENT to impeach our judgment, nor implicate us as having violated the oath we had taken? By what rule of reason do we now calculate, then, to suppose the PRESIDENT does not possess the same feelings, and embrace the same ideas, as now apply to him, standing as the representatives of the people in making Treaties? And how can we suppose it would not be a violation of the Constitution, and an assumption of power in us, to adopt this measure? Is it not clear, that if the will of the people is not expressed in the Constitution, nor the will of the nation in the opposition to the Treaty, that we should exercise this power; that our exercising it would be a depart-

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ure from the will of the people, and that our Government would then no longer rest on that basis? And would it not then be equally clear, that we had abandoned the inestimable rights for which we had contended? This would be to overturn our Constitution, and demonstrate to the world that a free people were not capable of self-government, and hold out but poor encouragement to those nations now struggling for freedom. In this point of view, I consider the question all-important; on this step, and the present crisis, depend the great and important question whether we are to enjoy the reign of laws dictated by the dispassionate will of the people, or whether men must content themselves to be subject to the reign of popular frenzy, anarchy, and confusion, on the one hand, or the insolent reign of despotism on the other.

As I consider the passing of this resolution a direct step towards the abolition of those sacred rights for which we have fought and bled, should I give my consent to it, the blood which I have shed, and my own mutilated frame, would reproach me.

Mr. BALDWIN thought the resolution so unexceptionable that he had expected it would have been agreed to without debate. The PRESIDENT has sent the House the Treaty; petitions have come forward on the subject; the House must act in the business. It is yet unaccompanied with any documents to throw light upon it. No person concerned in the negotiation has a seat on the floor of the House; so that no oral information can be expected. Implicit faith was not to be reposed, he imagined, in public officers. It would be unfair to take up the subject naked and unexplained.

He believed the resolution far from looking like hostility towards the Executive—was a measure which the Executive must wish for, as it affords him an opportunity of submitting to the House his grounds of proceeding in the business, which he could not do without it, except by rendering himself liable to the charge of officiousness. As to the objection that these papers were secrets of the Executive Department, he thought it more plausible than solid. The Executive might communicate them confidentially to the House, as was often done, or might keep back such as there was any temporary impropriety in communicating, on account of other transactions now depending. He thought the importance of having many Governmental secrets was diminishing. The doctrine of publicity, he said, had been daily gaining ground in public transactions in general, and he confessed his opinions had every day more and more a greater tendency that way. The passion for mystery was exploded, and what experience he had had in public matters confirmed him in the opinion that the greater the publicity of measures the greater the success. He had seen the doors of the House frequently shut, and had rarely known any good to arise from it. In a free Government, he wished the arguments for and against measures to be known to the people: this would reconcile them to those founded on sound reason and policy. This he had ever found the case in the part of the country he represented. Whenever he had had an opportunity of stating the reasons that had influ-

enced his vote on any particular question, he found those reasons had weight, and reconciled his constituents to the measure.

He again dwelt on the importance of accompanying the law with the motives of it. Upon this principle the House publish their Journals, and he had always found publicity produced a good effect. He should vote for the resolution, unless more valid objections to it than those hitherto brought forward against it could be adduced.

Mr. GALLATIN said, no member had a higher opinion than himself of the talents and patriotism of the member from Vermont, but he could not help expressing his astonishment at what had dropped from that gentleman. From what he had said, no one could have imagined that the motion before the House was merely a call for papers, but would have supposed that it was in contemplation to disorganize the Government, and to erect the House into a National Convention. It was too much to be feared that on a discussion of the Treaty the alarm would be sounded. We are scarcely on the threshold, and the cry of confusion and anarchy is already raised. He little expected to hear this in a debate on the present motion, which did not necessarily involve a Constitutional question. If he thought it did, he would have advised the mover to withdraw it, as he wished every Constitutional question to be discussed in a direct way.

What, he asked, is the state of the present question? The PRESIDENT tells the House that he has made a Treaty, and lays it before them: it is referred to a Committee of the Whole on the state of the Union for some purpose. What shape the discussion may take in that Committee cannot now be decided; but whether, when we take up the question of the Treaty, it be agreed that we have an agency and a discretion in carrying it into effect, or whether it be intended only to express our opinion, by means of a declaratory resolution, of that instrument, the information called for will be useful, by showing the reasons which induced the adoption of the Treaty. It had been allowed that the Treaty had excited much discontent, but it was supposed that the PRESIDENT and the Senate were the best judges, because they possessed the best information: to render this information public, must then answer a valuable purpose. The exception annexed to the resolution rendered it, in his mind, totally unexceptionable. The motion does not lay claim to the secrets of the Executive, but only asks. If the PRESIDENT thinks proper not to give the information, he will tell the House so; then a question may arise whether they shall get at those secrets whether he will or no: but that is not the question now.

In another view information would be of use: it would enable the House to form a just opinion of the meaning of any doubtful article of the Treaty. A member had expressed the opinion that the House had no discretionary power relative to the Treaty. This was taking for granted what remained to be proved; this would be a point to be discussed.

Mr. MURRAY explained, that what he asserted was, that if the Treaty was the supreme law of

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the land, then there was no discretionary power in the House, except on the question of its constitutionality.

Mr. GALLATIN said he should not now enter into the merits of the question, but merely state that certain powers are delegated by the Constitution to Congress. They possess the authority of regulating trade. The Treaty-making power delegated to the Executive may be considered as clashing with that. The question may arise whether a Treaty made by the PRESIDENT and Senate containing regulations touching objects delegated to Congress, can be considered binding without Congress passing laws to carry it into effect. A difference of opinion may exist as to the proper construction of the several articles of the Constitution, so as to reconcile those apparently contradictory provisions. But all those questions would occur in future discussions. What is now wanted is information on the subject, to elucidate the different views which may be taken of the Treaty. It must do good to obtain it, and could do no harm to ask for it. If it would be improper to communicate any part of the information on the subject, the PRESIDENT will say so. He had hoped, he said, that the resolution would have passed without objection. He concluded by observing, that the House were the grand inquest of the nation, and that they had the right to call for papers on which to ground an impeachment; but he believed, that if this was intended, it would be proper that the resolution should be predicated upon a declaration of that intention. At present, he did not contemplate the exercise of that right.

Mr. GILBERT was opposed to the resolution. He had heard no satisfactory reason given why the information should be asked for. He considered it as an attempt to encroach on the powers of the Executive Department. He insisted on the necessity of secrecy as long as there are despotic Governments to be negotiated with. If the PRESIDENT was to refuse the information, in which he conceived he would be justified, it might create discontents and heart-burnings. He was against the resolution as unconstitutional, unprecedented, inexpedient, improper, and dangerous to the peace and prosperity of the Government.

Mr. MADISON admitted that every proposition however distantly related to a question on the Treaty drew from the importance of that subject considerable importance to itself. In a discussion of this subject, he felt strongly the obligation of proceeding with the utmost respect to the decorum and dignity of the House, with a proper delicacy to the other departments of Government, and, at the same time, with fidelity, and responsibility for our constituents. The proposition now before the House, he conceived, might be considered as closely connected with this important question. It was to be decided whether the general power of making Treaties supersedes the powers of the House of Representatives, particularly specified in the Constitution, so as to take to the Executive all deliberative will, and leave the House only an executive and ministerial in-

strumental agency? He was not satisfied whether it was expedient at this time to go into a consideration of this very important question. If gentlemen were not disposed to press it, he would attempt to throw the resolution into such form as not to bear even the appearance of encroaching on the Constitutional rights of the Executive. The resolution, in the form in which it was first presented was liable to objection; the mover had removed that objection in great measure, by adding an exception to the papers requested. He wished to submit, whether the resolution would not be further improved by introducing the following words in lieu of the amendment proposed by the member from New York: "Except so much of said papers as, in his judgment, it may not be consistent with the interest of the United States, at this time, to disclose." He moved these words as an amendment, after striking out those brought forward by the gentleman from New York.

Mr. CRAB, though against the measure, expressed his intention of ameliorating the resolution as much as possible: he should therefore vote for the amendment.

Mr. SEDGWICK conceived the business assumed a new aspect. The subject was important; he wished to deliberate on it attentively, and hoped time would be given him to make up his mind. He moved to adjourn, and the House did adjourn.

MARCH 8.—The House took up Mr. LIVINGSTON's resolution; the amendment proposed yesterday by Mr. MADISON being immediately before the Committee,

A question was immediately taken upon that amendment, and lost —37 to 47.

The original resolution then came into consideration.

Mr. SMITH (of South Carolina) said, that he had listened attentively to the reasons advanced in favor of this resolution, and that he had heard nothing to convince him of its propriety. The PRESIDENT and Senate have, by the Constitution, the power of making Treaties, and the House have no agency in them except to make laws necessary to carry them into operation; he considered the House as bound, in common with their fellow-citizens, to do everything in their power to carry them into full execution. He recognized but one exception to this rule, and that was, when the instrument was clearly unconstitutional. In this case, he remarked, it had not been said that the Treaty was unconstitutional. When the resolution was first brought forward, it had indeed been observed, that the discussion might involve certain Constitutional points, and therefore the papers called for by the resolution were necessary: but it was obvious, the question of constitutionality should be determined from the face of the instrument, and that a knowledge of the preparatory steps which led to its adoption, could throw no light upon it; that ground was therefore abandoned even by the friends of the resolution, and others were resorted to.

A member from New York had said, the information called for was wanted, as it might ap-

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ply to all the possible views of the Treaty question; that he could not declare the particular point now, but that when the papers were before the House, they would then be enabled to judge. He differed in opinion from that member; when the House were about to call for papers, he conceived they should state for what purpose they wanted them; whether they wished to examine the question of constitutionality, or whether they intended an impeachment. In the latter case, a member from Pennsylvania, in favor of the resolution, had conceded, that the resolution should be expressly predicated on a declaration of the intention. All the gentlemen who had expressed their sentiments on the subject had renounced the ground of impeachment; the question of constitutionality was renounced, and the papers are finally to be called for in order to give general information. The member from New York wished for information as to the whole transaction to be before the House, that they might be enabled to judge of the propriety of carrying the Treaty into effect. This ground, he conceived, not tenable under the Constitution; the House were bound to carry it into effect, unless unconstitutional. They have no right to investigate the merits of the Treaty; it is the law of the land, and they are bound to carry it into effect, unless they intended to resist the constituted authorities.

A member from Massachusetts had, yesterday intimated that it was possible a knowledge of these papers might allay the sensibility which had been evinced on the subject of the Treaty. For his own part, he would not pretend to say what effect it might produce; but this argument was a severe reflection on the proceedings of the various associations, who had given their opinions of the Treaty, without thinking a sight of these papers necessary; it was also a censure on those Legislative bodies who had formed their opinions of it, without this necessary light. They thought themselves able to form an opinion of the instrument without the aid of these papers. If the public meetings which denounced the Treaty had thought them necessary to forming their opinion, they would have suspended it till these papers came to light. The gentleman from Massachusetts, had also said, that the papers might develop circumstances which would show the impropriety of carrying the instrument into effect. He, for his part, knew of no such circumstances; if there were any, they must go to the characters of the persons concerned in the transaction; and if the gentleman knew of any such, it was his duty to state them as a ground of impeachment; but from all quarters the intention of impeachment was disavowed. If the gentleman meant merely to allude to the circumstances which had been necessarily incidental to the negotiation, they were not, in his opinion, the proper subjects for the consideration of the House. With as much propriety might the PRESIDENT, when about to execute a law, wish to examine the Journals of the House, the instructions to committees, to determine whether it was improper or not. The PRESIDENT, in executing a law, exam-

ined its constitutionality on the face of it only. If the PRESIDENT and Senate have alone the Legislative power with respect to a Treaty, the House had no right to inquire into the subject of negotiation that led to it. The House are surely not to enter into the merits of the proceeding, and determine whether the instrument should be negotiated over again. This was not a right given by the Constitution, and if attempted to be exercised, it could be done only by arrogating it. By the Constitution the powers of Government are distributed; to Congress the Legislative power is given, the Executive to the PRESIDENT, and under the head of the Executive, the power of making treaties is comprised; but they must be, for greater security, approved by two-thirds of the Senate. All Treaties are the supreme law of the land, and the House cannot meddle with the Treaty-making power, without being guilty of usurpation.

A member from Virginia had said, that the information called for by the resolution might allay the ferment in the public mind, that it might form an apology for the Treaty. If the PRESIDENT, he replied, had thought so, he would have been glad to have laid it before the House; but he believed, he thought it did not need an apology, and that when tested with proper information by due consideration, that it required none.

When compared with the Constitution, and with other instruments of the same nature; when recourse was had to the books calculated to throw light upon it, it would be found that it required no justification from the correspondence and instructions.

He was surprised that gentlemen who displayed such zeal for the Constitution should support a proposition, the tendency of which went indirectly to break down the Constitutional limits between the Executive and Legislative Departments. The Constitution had assigned to the Executive the business of negotiation with foreign Powers; this House can claim no right by the Constitution to interfere in such negotiations; every movement of the kind must be considered as an attempt to usurp powers not delegated, and will be resisted by the Executive; for a concession would be a surrender of the powers specially delegated to him, and a violation of his trust. The proposition calls upon the PRESIDENT to lay before the House the instructions given to Mr. Jay, and the correspondence between him and Lord Grenville; and for what purpose? Is this House to negotiate the Treaty over again? Has the Constitution made this House a diplomatic body, invested with the powers of negotiation? Is not this House excluded? for, if the maxim that "the expression of one is the exclusion of another," applies to this case the assignment of the Treaty-making power to the PRESIDENT and Senate, is a manifest exclusion of this House. This call then on the PRESIDENT is an attempt to obtain indirectly what the Constitution has expressly assigned to others. Are these papers necessary to enable us to judge whether the Treaty is Constitutional or not? If the Treaty be unconstitutional, it must sufficiently appear so on the

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face of it; if the articles of the instrument be Constitutional, can the preparatory steps make them not so? Gentlemen complain of want of information. Admitting their complaint to be well founded, let them resort to the proper sources of information. What are those sources? If information be wanted to enable them to judge of the constitutionality of the instrument, let them take the Constitution in one hand and the Treaty in the other, compare them, and then decide; if from such comparison, they find no grounds for declaring the Treaty unconstitutional, their decision must be in favor of its constitutionality. Mr. S. referred to the proceedings of the Supreme Court in the case lately argued of the carriage tax and just decided; how did the Court proceed? Did they call for the Journals of the two Houses, or the report of the Committee of Ways and Means, in which the law originated, or the debates of the House on passing the law? What impression would such call have made on the public mind? Would it have enhanced in the public opinion either the dignity or wisdom of that tribunal? They took the Constitution in their hand, and tested the act by that standard, and by that alone has their decision been governed.

Is the object in calling for this information to discover whether the negotiator has conformed to his instructions? If so Mr. S. was at a loss to discern how that would affect the question. Such a circumstance might be important as it related to the PRESIDENT, and might prevent his laying a Treaty, not conformable to his instructions, before the Senate; but, being ratified by the PRESIDENT and Senate, all was done which the Constitution required. The Constitution does not require the intervention of a negotiator; it only requires the advice and consent of two-thirds of the Senate, and the sanction of the PRESIDENT; the PRESIDENT is not bound to employ an agent, he may in person conclude the Treaty with the foreign Minister or he may employ the Secretary of State; the instructions are private directions from him to his agent; and whether those instructions be pursued, or departed from, is a question only between the PRESIDENT and his agent. By adopting the Treaty, he sanctions the conduct of his agent; by laying it before the Senate, he manifests his approbation of a departure from his instructions, if any such there were; which, however, in the present case, is not admitted. To return to the case already referred to, of the carriage tax; would it be a material ingredient in the inquiry respecting the constitutionality of that tax, whether or not, the Committee of Ways and Means had conformed to the instructions of the House, in recommending such a tax? Undoubtedly not; the ultimate act, as passed by the different branches, would alone be looked into.

Mr. S. next adverted to the consequences of such a measure. Diplomatic transactions are in all countries of a secret nature; in the progress of negotiation, many things are necessarily suggested, the publication of which may involve serious inconvenience and disadvantage to the parties ne-

gotiating. Our Constitution has, therefore, wisely assigned this duty to the Executive. The precedent attempted to be established is, then, a dangerous one; for it not only tends to alter the nature of the Government, but to endanger the interests of the country. This is the first instance of the kind since the establishment of the Constitution. The Executive has, indeed, of his own accord, communicated to us such papers relative to negotiations, as appeared to him proper to lay before us, and as might show the public he was pursuing the requisite steps for obtaining redress. But there is not one solitary instance on the Journals, of a movement on our side, to obtain such papers, where he has not deemed it proper on his part, to transmit them. In this case, the PRESIDENT has communicated the Treaty, without any papers accompanying it. This is an evidence of his sentiments. Had he thought it his duty to have communicated the instructions and correspondence, he would unquestionably have done it. It has been said that he would refuse a compliance with such call, if he thought it improper; but this was no reason for making a wanton call; his having withheld these papers is an evidence that he thought it improper to send them; if, after this they are requested, and he sends them, it will be an avowal, on his part, that he committed an error in not sending them at first, or that they have been extorted from him. This call is then calculated to place him in a painful dilemma; he must either resist the application of this House, or surrender essential Executive rights. Is it expedient, is it generous or candid, to place him in this situation, without a more urgent necessity than has been stated? Mr. S. deprecated that clashing of authorities, which he was convinced this call would produce. This House, said he, is the representative of the people, for Legislative purposes; but the PRESIDENT is likewise their representative, for Executive purposes. It was not necessary, on this occasion, to pre-judge the extent of the right of interference, in a case of impeachment of the PRESIDENT by the House; because that case is, at this time, avowed to be out of the question. On any other ground, this House in its Legislative capacity, ought to be extremely cautious of encroaching on the rights which the PRESIDENT has derived from the people, as their representative, and which he exercises for their benefit. In the business of Treaties, the Constitution has provided no other check than the requisite concurrence of the Senate, and the right of impeachment by this House; unless, therefore, this call is predicated on an intention to impeach, and so stated and understood, it is an encroachment on the Executive, and will be attended with serious consequences.

A gentleman from Virginia had said that, when the papers are laid before the House, they would see upon what principle the Treaty had been made. He answered, that the PRESIDENT and Senate had a right to make Treaties; that they were the law of the land; that, in the present case, the British Treaty had been proclaimed as such. If it was not the law of the land, an im-

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peachment should be brought forward against the PRESIDENT for declaring it so. But there was no motion for impeachment. If it is the law of the land, what could the House do to prevent its being in force? why call for papers to see whether it was properly made? Can the House set it aside? They may resist it, and so may individuals resist the law, at the risk of consequences. The House have taken an oath to maintain the Constitution, and carry the laws into effect. It was a doctrine he had heard before now, on the floor of the House, and a sound one, that a law must be repealed or obeyed: if it is not repealed, it must be obeyed, or the Government dissolved. Can the House repeal the Treaty? No; then they must obey it.

The gentleman from Georgia had reprobated all secrets in Republican Governments, though he admitted there might evils arise by divulging papers whilst a negotiation was yet pending. With respect to secrets, Mr. S. thought them unavoidable in all Governments; it was a standing rule in that House, when confidential communications were made from the PRESIDENT, to clear the galleries, and even to exclude some of the officers of the House. He referred to the practice of the Old Congress on the subject of secrecy; and alluded to the case of a member who had been censured for divulging secret correspondence. It had been said by the member from Georgia, also, that the Treaty carried no explanation with it, and if the House acted upon it, they must take it up unexplained. He thought nothing more was necessary than to see that it was a law. What explanation did that gentleman want? What necessity for information with respect to the negotiation? It was a matter with which they had no concern. It belonged to another authority. That gentleman had also said, that he did not suppose the request would be painful to the PRESIDENT, but that it would give him pleasure. Was not the PRESIDENT himself the best judge of this? He had not given the papers to the House, and on former occasions, when he wished papers to be made known, he had done so.

A member from Pennsylvania had said, why refer the Treaty to a Committee of the Whole, if they did not mean to do something with it? It was sent there, Mr. S. observed, in order to make the proper appropriations for carrying it into effect. Now, this reference was made the ground of calling for the papers; and when the papers are produced, he supposed they would say, why have these papers, except we go into an examination of the merits of the Treaty? It was also said by the same gentleman, that these papers would enable them to understand the articles of the Treaty. He believed they were to understand the Treaty from the face of it, as judges expound the law, by examining the law itself. That gentleman further observed, that, as the Treaty contained commercial regulations, the information asked for, would enable them to decide with respect to legislating on the subject; but, said Mr. S., the Constitution will decide that better than instructions or correspondence.

Mr. S. said he believed he had examined all the reasons assigned for calling for this information. He thought before the House made such calls, it should have good grounds for them, especially, when the PRESIDENT had shown his opinion by not sending the papers with the Treaty. Mr. S. took a brief review of his arguments, paid a compliment to the member from Vermont, on account of his speech of yesterday, and concluded by saying, that that House had no more right to send to the PRESIDENT for the papers in question, than the printer of a newspaper had; he might communicate them to either voluntarily, but neither had a right to demand them. He apologized for having trespassed so long on the time of the House, and expressed his hope that the resolution would not pass.

After Mr. S. had sat down, it was moved by Mr. GILES, to take the resolution up in Committee of the Whole for the purpose of more ample discussion.

This motion was agreed to; sixty-one members rising in the affirmative.

The House immediately resolved itself into a Committee of the Whole, on the resolution.

Mr. NICHOLAS remarked, that the member from Connecticut, first up, when inquiring for the reason of a call for papers, had suggested two. The one, relating to the merits of the instrument; the other, an inquiry into the conduct of officers concerned. On the latter ground, gentlemen conceded that the House had a right to require the papers, and yet seemed willing to adhere to that, on which they conceive a call could not be, with propriety, grounded, as the one that influenced the conduct of the friends to the resolution. All gentlemen admitted that the House had the superintendence over the officers of Government, as the grand inquest of the nation; but persisted that the resolution calling for papers, if intended for the purpose of exercising that authority, must be predicated on an expression of the intention. How, he asked, could this intention be properly made up, without a previous sight of those very papers; would the House risk their own credit in the business, without seeing clearly the ground they went upon by having before them the information now called for? The right, he contended, of superintendence over the officers of Government, gave a right to demand a sight of those papers, that should throw light upon their conduct.

He took a view of the prominent features of the arguments of the members up before him. It had been said that, if the power of the PRESIDENT and Senate, as to Treaties, was complete, then the House had no right to claim a participation; this could not be denied; but the question was, whether the Executive had that right, unqualifiedly, in all cases. In the present case, he contended, the House had a voice. To elucidate: Suppose that, in the Constitution of the United States, which has been so guarded about the expenditure of money, a clause had been inserted, positively declaring that the House have a control over the money matters stipulated in a Treaty; would not this constitute a qualification of the powers of the

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PRESIDENT and Senate with respect to Treaties? The Constitution, on this head, he contended, though less explicit than his supposed case would make it, was not the less positive, if tested by all the fair rules of construction; and if compared with the practice of the Government, from which we had borrowed, with many other matters, this part of our Constitution. In England, the country alluded to, their House of Parliament had exercised a control over the moneyed articles of Treaties; and he contended, the House of Representatives had an equal authority here, as chief guardians of the purse-strings. It was unnecessary, at this time, he said, to touch on the other parts of the Treaty which clashed with the Constitutional powers of the House.

The member had said that the Treaty being concluded, and being a law, the House were, as subject to the law, obliged to pass the necessary provisions to carry it into effect. He did not suppose for his own part, he said, that he was sent here to pay implicit obedience to any department of Government, and receive a decision on what was to come before the House at their hands; but to use his discretion to the best of his knowledge and abilities.

He again adverted to the power of control that the House of Commons have over Treaties; and contended, that that provision of the British Constitution had been accurately copied in our own with this deviation only, that the Senate have the power of making amendments to money bills here, which the House of Lords there have not. He could show from the best authority, the acknowledgment of the British Crown officers themselves, that the Parliament has a right to discuss and decide on Treaties which involved moneyed stipulations.

The same power, he argued, resided in the House here; for shall it be said, that we have borrowed only the form from Great Britain, and not touched the substance? Shall it be said, that the House have a discretion as to appropriations, and yet they must make them as directed by a Treaty? If the House have no discretion to use in the business, they are the most unfit body to regulate money-matters; for complete regularity in so large a body must be one of the least of their valuable properties. But, with the power of appropriating money, the House have certainly the right to judge of the propriety of the appropriation. The Constitution explains itself fully on this head. He instanced the specific power in the Constitution, with respect to appropriations for the Army, to explain from that instrument its meaning in other parts.

The Constitution says, that no appropriations for the support of armies shall be for more than two years; this is, no doubt, that the House may periodically have before them the question of the propriety of supporting an armed force, with all its consequences, and that they may, by refusing or granting an appropriation, determine on its existence. The power thus cautiously lodged must have been for some purpose, and that he had suggested could alone explain this clause of the Con-

stitution. This will show what was expected of this House in appropriating money; that they should judge of the usefulness of the expenditure. In the case of the Army, the Constitution does not say that we may disband an Army by withholding money; but for the purpose of investing us with the same power, only requires that the appropriation should recur every two years; taking it for granted, that in this as well as in every other Legislative act, we will duly weigh every consequence.

Having thus explained from the Constitution itself the true meaning of this power of appropriation, he proceeded to elucidate it by a reference to the practice of the Government. He found an instance in the permanent appropriations made for the payment of the Public Debt. If the House in this and analogous cases, could exercise no discretion as to appropriations, why this permanent provision, in preference to an annual appropriation? The permanency of the provision took its rise from the idea, that the House possessed a discretionary power as to appropriations. Thus, he had shown, that the practice of the Government, the provisions of the Constitution, and the example of the British, from whom we had exactly copied the control over money transactions, all proved a discretion in the House as to appropriations. This must be considered as a sufficient answer to the gentleman from South Carolina, when he said, that the PRESIDENT and Senate possessed the Treaty-making power; for they possessed it with qualifications, in matters of money; and unless the House chose to grant that money, it was so far no Treaty.

The member from South Carolina said, that the idea of impeachment was renounced. He was mistaken; no member in the House could now with propriety declare that when the papers are produced there may not be found ground for impeachment.

Another ground stated as a motive with the friends of the resolution for the call for papers, was to throw light in a discussion of the merits of the Treaty. The right of the House to view the instrument in this light was contested, and doubts had been raised; but if the House had a discretion as to appropriations, must they not take a view of the merits of the Treaty? But even if these doubts were not removed, even if the House had not a right, or did not want the papers to discuss the merits of the Treaty, still another motive existed acknowledged sufficient, which would cover the requisition, viz: the power of impeachment. It was said, that the precise use these papers are meant to be put to, should be stated; he repeated that they must be seen before it could be known what proceeding might be most properly grounded on them. It was said, that the PRESIDENT may refuse the papers asked for if he thinks proper, and that if he has a right to refuse, the House cannot have the right to ask. The House ask for particular papers, assert their right to them, under a broad qualifying reservation, dictated by their own discretion, which prevents any embarrassment arising in pending negotiations from it.

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It had been said that the PRESIDENT would have sent the papers if it had been proper they should be communicated. In one point of view the PRESIDENT must have supposed they could not have been wanted. Acting from pure intentions it could not occur to him, that the conduct of the negotiators of the Treaty deserved a criminal investigation. In the other view it was no argument, for the House should not deviate from the road of their duty, by the belief, opinion, or conception, of any man.

It was said, that by supposing papers necessary to elucidate the subject of the Treaty, it was virtually accusing those who had passed their judgment on that instrument with hastiness. If the House, who can claim a right to a sight of the papers, should decide without them, they, with justice, might be reflected on for precipitation; but the people could only act on the information given them, and on the general impressions the instrument made. Besides, their judgment on it was not final, it was not to annul, it was only an expression of their sentiments; a Treaty also may be so bad, as to impress a strong belief, that no circumstances leading to it can exist to prove it tolerable.

The PRESIDENT's power over the laws had been mentioned by the member from South Carolina, as analogous to that which the House had a right to exercise on the present occasion. But that gentleman had insisted, that he had only their constitutionality to consult. Mr. N. differed in opinion; he conceived his right extended to the examination of their policy in all its relations, before he gave them his sanction. He may hitherto, from his confidence in the Houses, never have questioned the policy of their laws, but his not having used the power did not deprive him of exercising it in future.

It had been said that the Minister who negotiated a Treaty was a private agent of the Executive, and not answerable to the House. This was a strange doctrine indeed: Surely a Minister is a Constitutional officer, and as such impeachable. It has been said, that even if a Minister had deviated from his instructions, if his principal approved and sanctioned the deviation, the agent was no longer responsible. The doctrine he considered as very dangerous. A Minister might violate his instructions in a point not justified by existing circumstances; the change produced by the negotiation might justify the principal in accepting the Treaty; but though the latter might be justifiable, the first could not. The conduct of the agent might improperly bring the principal, without good cause, into such a dilemma as to oblige him in a manner to accept the Treaty he had made; but its ratification could not be a cloak to the conduct of the Minister.

It was said, that if the Treaty was not the law of the land, the PRESIDENT should be impeached for declaring it as such. Parts of the Treaty the PRESIDENT and Senate had, no doubt, a right to make without any control of the House—those parts he might be considered as proclaiming; he proclaims it, limited as his authority, and under

the qualifications provided by the Constitution. It was said, that no instance of such a call as that now contemplated could be produced. No; nor of such a Treaty, he answered.

He concluded by a short recapitulation.

Mr. HEATH spoke as follows: I always feel a peculiar diffidence whenever I deliver my sentiments on any important occasion in this House, for fear they may not be sufficiently matured by deliberation. But it appears to me the resolution under consideration, is essentially important for two considerations: first, that the request or call for those papers contained in the resolution, is a Constitutional right of this House to exercise now, and at all times, founded upon a principle of publicity essentially necessary in this, our Republic, which has never been opposed, that I have either heard or read of, since the first organization or operation of this Government; and, secondly, because, at this particular conjuncture of our affairs, more especially since the Treaty lately negotiated with Great Britain has created so much uneasiness and solicitude in the public mind, we therefore ought to pursue every method in our power to allay their sensibility. It is more than probable, when those papers are exhibited to public view, it may have so agreeable an effect as to reconcile fully the feelings of the people to the propriety of the negotiation as well as the instrument itself. I am sorry, Mr. SPEAKER, while we are only on the threshold of the Treaty in point of discussion, that some gentlemen (alluding to one or more of their colleagues) should express so much prejudice against the Treaty itself, before a full and mature investigation of the subject. Mr. H. called the attention of the House to the PRESIDENT's Speech at the opening of the session. The PRESIDENT, he observed, in that Speech, on the subject of the British Treaty, says, that when the resolution of the King of Great Britain should be known, he would lay the subject before Congress. When he spoke of the Indian, he only intimates that he will lay the articles of the Treaty before them. He deduced from this striking difference in the language of the PRESIDENT, when speaking of the different Treaties, this conclusion, that the PRESIDENT wished, himself, to lay the whole business before them for the satisfaction of the House, and of the people, which could not be done without a surrender of those papers of correspondences and documents had and used in the late negotiation. Mr. H. cited the article of the Constitution, showing all money-bills and appropriations to belong to this House; and that the money of the people should not be voted out of their pockets without giving them the utmost satisfaction, for passing the laws to this effect. So that, upon the whole, I have no doubt in my mind of the right, policy, and propriety, of this House in calling for the papers; and therefore, I trust, the resolution will obtain.

Mr. SWANWICK expressed his sense of the importance of the subject before the House, and the pleasure which he experienced at observing the calmness and temper with which the discussion had been carried on. He did not conceive, how-

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ever, that the decision of the present question involved the sense of the House as to the merits of the Treaty; the object of the resolution was only to obtain that knowledge necessary for an enlightened decision; it had been observed, that the Treaty had been censured by assemblages of people with precipitancy, and without proper information. They did this on the best information that could by them be obtained. But if the House should go into a Committee of the Whole, to take into consideration the Treaty, without obtaining all the information in their power, they would be justly to blame.

In the course of the debate, it was generally urged against calling for the information, that the House had nothing to do with the subject; that the Treaty being the law of the land, the House had nothing to do but to acquiesce. Even if that were the case, he saw no impropriety in calling for the information, which the PRESIDENT could withhold if not proper to be given. The House were daily in the habit of calling for information in this way. On the subject of the Naval Equipment the other day, information was called for. The present is an important subject, involving all the great commercial interests of the country, grants of money, regulations concerning our Territory. If information is called for on matters of lesser moment, should it be denied on objects of the utmost importance? Some gentlemen had contended that Treaties were laws, with which the House had nothing to do. He believed, that all the members of the House felt an equal zeal for the public welfare, and to act under the Constitution, according to its true import; but it was unfortunate, that a Constitution, however carefully framed, would contain parts liable to different constructions; even the Bible was not free from this: different deductions were made from the same texts by different theologians.

He adverted to the Constitution; according to that instrument, the Legislative power is completely vested in Congress. By the 8th section of the 1st article, not only a certain specification of powers are granted to Congress, to lay and collect taxes, regulate commerce, &c., but the very extensive further power, not only to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, but, also, all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof. If, then, Congress have the power to pass laws to carry into execution all powers vested by the Constitution in the Government of the United States, or in any department or officer thereof, how is it possible that there can be any authority out of the purview of this general and extensive Legislative control? Is the Treaty-making power not a power vested by the Constitution in the Government of the United States, or in a department or officer thereof? If it is, is the conclusion not obvious, that Congress have power to pass laws for carrying these powers into effect? But in the power to pass laws, discretion is necessarily implied; of course, this House must judge when it is to act;

whether it will, or will not, carry into effect the object in question. It is a power, it is true, of great delicacy and responsibility, but it is not less a power constitutionally given.

The member from South Carolina construed this part of the Constitution in a different way, and insisted that, as the PRESIDENT and Senate had the power of making Treaties, the House were divested of the right of exercising their judgment upon the subject. If this doctrine prevails, to what a situation would the Representatives of a free people be reduced? The Constitution especially gives them the power of originating money bills; but to what purpose would this power be granted, if another authority may make a contract, compelling the House to raise money? Suppose that authority were in this way to grant millions upon millions, must the House, at all events, be compelled to provide for their payment? In this case the House become mere automatons, mere Mandarin members, like those who nod on a chimney-piece, as directed by a power foreign to themselves.

Great stress is laid upon the Constitution declaring Treaties laws of the land. This article has often been quoted partially, but not at large. It is in these words: "This Constitution, and the laws of the United States, which shall be made in pursuance thereof, and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land." Had the clause stopped here, there might have been some plea for the gentlemen's doctrine; but, unfortunately for them, the article goes on to say: "And the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State, to the contrary notwithstanding." Hence, it is obvious, that the supremacy of the law is over the Constitution and laws of the separate States, which was necessary to prevent these interfering with those. But it does not affect the powers of this House, as a component part of the General Legislature, and authority of the United States. It is also worth while to notice the gradation in the article.

First. This Constitution.

Secondly. The laws which shall be made in pursuance thereof, clothed with the highest sanction of the nation, the consent of the three branches.

Thirdly. Treaties. How absurd the doctrine, then, that these last, third in order, can repeal the second: at that rate, all power whatever would remain vested in two branches only of the Government: the third, with all its powers of originating bills for raising revenue, would be dwindled into a mere board of assessors.

The gentleman from Vermont said, yesterday that if the PRESIDENT and Senate were to make a Treaty, and that House were to refuse to make due appropriations for carrying it into effect, it would become a nullity, and no foreign nation would in future treat with such an uncertain Government. Mr. S. observed, that that gentleman would probably be surprised, when he was told, that the British House of Commons possesses the

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same power which he reprobates in the Legislative Assembly of the United States. This, Mr. S. proved, by reading the King's speech to both Houses of Parliament, in which he informs them of this Treaty, and promises to lay it before them when ratified, in order that they might judge of the propriety of making provision to carry it into effect. What, judge of the propriety of passing laws to carry into effect a Treaty ratified! And shall it be said, exclaimed he, that the Representative Assembly of the United States does not possess a privilege enjoyed by an English House of Commons! He hoped not. As this power of deliberation, with respect to appropriations, might be considered a new doctrine, Mr. S. proposed to read two extracts from a work entitled "The Federalist," from pages 101 and 103.

Mr. WILLIAMS objected to the extracts being read, but the House overruled the objection.

The extracts are these:

"A branch of knowledge which belongs to the acquisitions of a Federal Representative, and which has not been mentioned, is that of foreign affairs. In regulating our own commerce, he ought to be not only acquainted with the Treaties between the United States and other nations, but also with the commercial policy and laws of other nations. He ought not to be altogether ignorant of the law of nations, for that, as far as it is a proper object of Municipal Legislation, is submitted to the Federal Government. And, although the House of Representatives is not immediately to participate in foreign negotiations and arrangements, yet from the necessary connexion between the several branches of public affairs, those particular branches will frequently deserve attention in the ordinary course of legislation, and will sometimes demand particular Legislative sanction and co-operation."—Page 103.

Here the doctrine of Legislative sanction and co-operation is plainly admitted.

"It is agreed on all hands, that the powers properly belonging to one of the departments, ought not to be directly and completely administered by either of the other departments. It is equally evident, that neither of them ought to possess, directly or indirectly, an overruling influence over the others in the administration of their respective powers."—Page 101.

If neither of the powers ought to possess, directly or indirectly, an overruling influence over the others, whence is the power to be deduced of the PRESIDENT and Senate, by Treaty, to make laws possessing this very overruling influence over this House?

In the course of this debate, Mr. S. remarked, he had heard some observations which he was sorry to hear, and which he thought irrelevant. It was said that encroachments on the Constitution were more likely to be made by that House, than by any other branch of the Government. Whence, said he, arises this charge? How long since this House hath become such a bug-bear—such a scare-crow? What motives can it be supposed, this House possesses, thus to encroach: of all the branches of the Government, the most transient and short-lived, elected but for two years, then returning to the mass of citizens, what interest have they in encroachments? Besides

ought we to be the first to find this fault with ourselves? Are the other branches unable to defend themselves, that we must suggest this to them? All this is truly surprising. But, said he, is there no danger from encroachments in other quarters? When gentlemen talk of that House being bound to make appropriations without inquiry, it was time for them, at least, to beware of encroachments. What the House now wanted was information; they wanted to know for what purpose they were about to grant money, before they granted. He trusted that House would always be cautious how they parted with the money of the public. In no instance, he said, had they been charged with being too scrupulous in that respect.

One gentleman from Vermont called upon the House to beware of encroachments, lest they overturned their Republican Government; he said we were now to show how far we possessed the power of self-government; why, what other Government would the gentleman have? Are the thrones of despots more secure than Republics? Alas! all Governments have been tried, and have succeeded each other; but still the imperfection of man himself must be shared by his Government, be it what it may. But was not this Government, he said, as likely to be administered wisely, as any other existing Government? There may, and will be differences of opinion on this and almost every other subject; but he trusted there was sufficient information and uprightness of heart in the country, to prevent any danger to their Government. He wished every subject which came before the House, to be freely and fully discussed; and whilst the same good temper was observed which had been so conspicuous in the present debate, he trusted that no evil, but the greatest good, would arise from such discussion.

MARCH 9.—In Committee of the Whole, on Mr. LIVINGSTON'S resolution, Mr. MUNTLENBERG in the Chair—

Mr. N. SMITH said, he agreed with gentlemen who asserted, that there was no Constitutional question included in the resolution on the table. He believed it perfectly accorded with the Constitution to ask the PRESIDENT for papers, when they could be of any use to them, and that the PRESIDENT had the same privilege to ask for information from the House. Indeed, he believed, whenever any one of the departments of Government wanted information from any other department, to enable them to perform their Constitutional functions, it was highly proper to call for it. But he did not believe they ought to pass the resolution, unless some specific object was pointed out, to which the papers could be applied, and for which they might be of use to them. That they could do no harm, in his opinion, was a very poor reason for the interposition of the House. He wished never to pass a resolution on idle and ridiculous grounds, but because it was founded in solid reason and propriety. Such reasons, in his opinion, had not been offered in favor of calling for the papers. When he admitted, that in calling for papers, distinctly considered, there was no unconstitutionality, he did not mean to be understood

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to say that there was not a Constitutional question involved in the discussion. He thought there was one, of the highest magnitude; no less than whether the House of Representatives have a right to judge over the heads of the PRESIDENT and Senate on the subject of Treaties. But this was not a necessary consequence of the resolution, and if gentlemen would show any other sufficient cause for calling for the papers, he would agree it ought to pass; and although he could see no other sufficient cause for passing the resolution, yet if gentlemen would declare, they did not want them to judge of the Treaty, they would at least save him the trouble of opposing it. But while the advocates of the resolution assign it as a reason for the call, that we want them to enable us to make up our minds on the merits of the Treaty, can they blame gentlemen for attempting to prove that the House of Representatives have no right to judge on a Treaty? The advocates of the resolution had, since the introduction of it, several times changed their grounds; assigning, at different times, very different reasons in favor of calling for the papers in question. What were their reasons for thus changing and shifting was to him a matter of no consequence, since all the reasons which had been offered in its favor, were, in his opinion, capable of conclusive answers. He should endeavor, he said, in answering what had fallen from different members in favor of the measure, not to travel over the ground which had been taken by gentlemen who had gone before him, on the same side of the question. It had been said, that information would tend to allay the sensibility of the public mind, and that nothing was more desirable than publicity in all Governmental proceedings. But, he presumed, it would be admitted that there was a great difference in that respect between the business of an Executive and the Legislative. He believed it must also be admitted, that each department of Government ought to be the sole judge when to make any part of its proceedings public. Besides, if the object is to publish them, in that case there ought to be an act passed regularly, directing them to be published. What, said he, is the language of this resolution? If it went to the PRESIDENT, would he not suppose the papers asked for were wanted to assist the House in legislation? He would never conjecture they were wanted to be published, and it would be wrong to publish them. It was said, by a gentleman from Pennsylvania, that the papers were wanted to explain doubtful parts of the Treaty. He had wondered the gentleman could say this, when on a former occasion, on discussing the subject of the Federal City, the same gentleman had declared, that a law must be construed from the face of it, and that nothing extraneous to it could be admitted. The sentiments of the gentleman, delivered on that occasion, exactly accorded with his. Indeed, he said, it would be absurd to oblige people to obey an instrument according to the face of it, and yet suffer that instrument to be essentially altered and changed from extraneous circumstances; and to say it is not to be obeyed, according to the manifest construction

from the face of the law itself, is saying that it amounts to nothing at all.

It has been said, that these papers are wanted for the purpose of impeaching the negotiator, or PRESIDENT OF THE UNITED STATES. This, the gentleman from Pennsylvania had acknowledged could not be considered as an object of the call, unless it had been mentioned in the resolution itself. He was quite willing, however, that any gentleman who wished for an impeachment should vote for the resolution. He believed the number would be very small. But he hoped gentlemen would not pretend they wanted them for an impeachment, when in fact they had no such idea. He hoped they would not make that the ground of their vote, when in fact they wanted them for a different purpose. He extremely regretted, that the friends to the resolution had not pointed out the specific object to which they meant to apply the information, when it was obtained. Had this been done in the resolution, it would have prevented much confusion and embarrassment. He believed, however, that the great object was to obtain the information, for the purpose of enabling the House to judge on the merits of the Treaty. He should, therefore, take the liberty to answer gentlemen on that ground. It has been said, the PRESIDENT and Senate have not the power to make commercial Treaties. If this is the case the Treaty is absolutely void. Then why want papers? Whether the PRESIDENT and Senate have the power to make commercial Treaties or not, it must be extremely clear, by recurring to the Constitution, that the House of Representatives have no right to make Treaties of any kind. But it is said the Treaty contains commercial regulations, and therefore is subject of their inquiry. He said they had a right to legislate with respect to commerce, but not to make Treaties on that head. If they had, he asked, from whence do they derive the power? Let the Constitution be searched from beginning to end, and not a syllable will be found which bears an appearance of design to give the House of Representatives a participation in the power of forming contracts with foreign nations. Besides, if they had a right to judge of it, they ought to have had a hand in making it. It has been said, that in England the House of Commons claim a right to judge of the merits of Treaties, and withhold their aid whenever they think proper; this is not peculiar to the House of Commons, it is in Parliament at large. But why introduce this by way of precedent to guide us in construing our own Constitution? They have no such written Constitution as we have; their Constitution is entirely made up of usages and laws. Whenever you prove, therefore, that they have an usage like the one that is mentioned, of judging on Treaties, you have then proved that such is their Constitution, and if our Constitution expressed in terms what theirs expresses by their usages, there could be no doubt but that the House should have the right. In construing a written Constitution, to introduce the practice in a country who have no written Constitution, can have no effect but to mislead. If gentlemen could show us a written

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Constitution in England wherein the Treaty-making power is exclusively vested in the King, with the advice of the House of Lords, and under such Constitution the House of Commons claiming a right to interfere in the subject, their precedent would then apply; unless, indeed, it were too absurd to be considered as a precedent. He said the two Governments were perfectly dissimilar; why, then, introduce the practice of that Government as a guide for this? He was well suited with the Constitution of America, and wished not to assimilate it to any foreign Constitution, and he hoped it would not be warped and twisted to become like them. Were they about to form a Constitution, it might be desirable to take whatever was found good in any other; but when the Constitution was already formed and marked out by direct boundaries, in a manner too plain to be mistaken, could it be of any use to inquire what was the Constitution of other countries? He said the Convention who formed our Constitution had avoided that part of the British Constitution, as absurd. In England, the King has the sole power of making Treaties; but, after the Treaty is made, Parliament claim a right, in certain cases, to judge of their merits. In this country, the Convention, in framing their Constitution, had seen fit to add the Senate to the PRESIDENT, in the business of making Treaties; and, still further to guard the matter, required that two-thirds of the Senate should concur; and then, as if to completely shut the door against all further investigation of their merits, or any cavilling on the subject, declared that a Treaty thus made should become the law of the land. The Convention must be supposed to be thoroughly acquainted with the usages in England at the time of framing our Constitution, and appear to have studiously avoided that part of their Constitution. He said the time this usage found its way into the English Government could not be important, nor could the cause of it; this much, however, appeared very clear, that Parliament had no limits to their power; they could even change the Constitution of the Kingdom; a power which no man will pretend is in the Legislature of this country. But it is said, Congress have power to make the necessary appropriations or withhold them, and that for the purpose of guiding their discretion in this business, they must have a right to judge of the Treaty. The whole fallacy of this argument, he said, consisted in supposing they had a right to judge of the merits of a Treaty. Let gentlemen look at the Constitution, they will find no such power given; and if that instrument does not give it, how do we come by the power? The Constitution, he said, had assigned the business of making Treaties to the PRESIDENT, with the advice of the Senate; whenever, therefore, a Treaty came incidentally before them, they were bound to consider it as well done, having been done by a department constitutionally authorized for the purpose. As a citizen, he had an opinion on the Treaty; and, in determining whether the PRESIDENT and Senate had deserved well of their country, he was ready on all occasions to call it into exercise; but as a member of

the Legislature he had no opinion; he would form none: because the Constitution, which his constituents had given him as a guide to his conduct had given him no right to form an opinion on the merits of a Treaty. It was obvious, therefore, the papers could be of no service to him. But, say gentlemen, are we to sit down here and vote for a law which we believe a bad one? And one gentleman had inquired what he should inform his constituents, when they made inquiries of him on the subject? He would answer both the inquiries: He thought the gentleman might justly inform his constituents, that they, by their Constitution, had given the PRESIDENT, with the advice of the Senate, the power of making Treaties; and, having had no hand in making it, he was entitled to no share of credit or blame on account of its merits. As to the former inquiry, he would first see how far the gentleman's doctrine would lead them, and would then give his own ideas on the subject. The principle, if pursued, would carry its advocates too far; for, on the same principles, they had a right to judge whether a PRESIDENT was a proper person to fill that office, every time the question arose whether they should appropriate for his salary. Again, suppose the House were about to appropriate for the salary of a Judge, it might with equal propriety be asked, are we to pass a law which we believe a bad one?—and thence inquire into the merits of the Judge, and see whether the PRESIDENT and Senate had appointed a proper person or not. But pursue this doctrine and it will be found to affect some of the dearest rights of the people themselves; for suppose the House should conclude the electors had elected a very improper person as a Representative; on inquiry, into the merits of the member, they might, on finding this in their opinion to be the fact, withhold an appropriation for his salary. But the true answer, he conceived, to all these cases was, that these were subjects on which the Constitution had given them no right to judge; they were, therefore, to consider all as well done, being done by the proper persons for the purpose. The PRESIDENT, the Judge, and the Member, so far as it respects us, in our appropriations, are to be considered as the most proper persons, however our private sentiments may be. Just so respecting a Treaty: the Constitution has made it the duty of the PRESIDENT and Senate to make Treaties, in as full a manner as it has to appoint Judges, and we are equally bound to consider all as well done, and have no more right to judge of its merits, than in that case to form an opinion of the merits of a Judge.

He observed, that as to the question, whether they had a right to withhold appropriations to carry into effect a law of the Legislature, he wished at that time not to controvert, as that would place him on ground much weaker than the true ground of discussion. But, he asked, is a Treaty a law, simply considered, and have the Legislature a right to repeal it, as they may their own laws? No; it is a contract, binding them to a foreign nation, and when once it is formed they have no longer any power over it. He would state the true ground

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of the business as it appeared to him. The discretion of that House was limited by the Constitution, by Treaties, and ultimately by the law of right and of justice, and when he had said this, he thought he had completely defined it; for although the House had a discretionary power, yet that by no means implied that they could exercise such discretion on subjects placed by the Constitution in other hands. He considered Treaties, as they respected that House, the same in point of principle as laws were respecting Judges of a Court. If it should be asked whether a Judge had not a perfect discretion on all the judgments he rendered, no man would hesitate to say he had, and yet no man in his senses would say that because he had such discretion he must therefore have a right to judge whether a law was a good one or not. But having no hand in making the law, he is bound to consider it a good one, being made by the proper Constitutional department of Government for that purpose. He said the House in all their appropriations ought to exercise a sound discretion in as ample a manner as any gentleman pleased, provided they did not leap the bounds of the Constitution, and undertake to judge on subjects which they had no right to judge upon by the Constitution. He said, he considered the PRESIDENT and Senate as agents for the people of the United States in forming contracts for them with foreign nations; and when contracts were thus formed, they were binding on the nation who were to be considered as the principal. That the Legislature were to be considered as another set of agents bound to carry the contract so made into effect; and when they found a contract already formed by the people in a manner pointed out by them in their Constitution, shall the Legislature be quibbling and cavilling about carrying it into effect? Shall they be calling for papers, and questioning whether the people have made a good bargain or a bad one, when the people have not seen fit to intrust the subject to their discretion? Such a piece of conduct, he conceived, would be usurping powers which they did not possess, and highly disgraceful to the nation. Lest he should tire the patience of the Committee too much, he would proceed no farther, except just to remark, that it had been said the PRESIDENT might be pleased with an opportunity to send the papers. But could not the PRESIDENT have sent them if he had wished, without the interposition of the House? If the call was made, the PRESIDENT must either send them or refuse, and to do either would be embarrassing to him. It would be placing him in a situation which it was to be hoped the Executive would not be placed in; for if he sent them it was explicitly saying, he had been negligent of his duty in not communicating them before; if he refused, it was setting up department against department, a situation of all others to be regretted. He hoped the resolution would not pass.

Mr. HARPER said, that it had not been his intention to trouble the Committee, in this stage of the debate at least; nor should he now depart from his resolution on that head, had he not observed that the discussion was turning more and more on

points, which it appeared to him unnecessary to decide. He did not conceive that the powers of the House respecting Treaties were necessary to be considered; the question appeared capable of a satisfactory decision on different grounds.

When the motion was first proposed, he thought it innocent at least, and was in doubt whether it might not be proper, because he was in doubt how far these papers might be necessary for enabling the House to exercise that discretion on the subject of Treaties, which he admitted it to possess; but on a more accurate and extensive view of the subject, and after carefully attending to the discussion which had already taken place, he was thoroughly persuaded that these papers were no way necessary, and, that being unnecessary, to call for them was an improper and unconstitutional interference with the Executive department. Could it be made to appear that these papers are necessary for directing or informing the House on any of those Legislative questions respecting the Treaty which came within its powers, he should propose to change the milk-and-water style of the present resolution. The House, in that case, would have a right to the papers; and he had no idea of requesting as a favor what should be demanded as a right. He would demand them, and insist on the demand. But, being persuaded that no discretion hitherto contended for, even by the supporters of the resolution themselves, made these papers necessary to the House, to call for them would be an unconstitutional intermeddling with the proper business of the Executive.

This, it would be remembered, was no new doctrine to him. It would be remembered, that, in the last session, very soon after he took a seat in that House, he had opposed a motion, the object of which was to request the Executive not to suffer a Treaty with the Indians to be held for a particular purpose, and had opposed it, because making Treaties being the proper business of the Executive department, for that House to interfere on the subject, to request the Executive to treat or not to treat, was an interference with his duties, unwarranted by the Constitution, and tending to embarrass his operations, and lessen his responsibility. On the same ground he should oppose the present resolution.

It had been said, that this motion was of little consequence; that it was only a request which might be refused, and that the privileges of that House were narrow indeed, if it could not request information from the Executive department. But it would be observed, he said, that requests from bodies like that, carry the force of demands, and imply a right to receive. Legislative bodies often make the most formidable expressions of their will in the shape of requests. It would be further observed, that an honorable member from Pennsylvania, [Mr. GALLATIN] after declaring that this indeed was only a request which might be refused, had added, that in case it were refused, it would then be proper to consider how far we ought to make the demand, and insist on receiving these papers as a matter of right. After this avowal of the system, after this notice that the present request is

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no more than a preliminary measure, a preparatory step, and in case of a refusal, is to be followed up by a demand, could it be wondered that they who think the measure improper, should oppose it in the threshold?

Much astonishment, he said, had been expressed by an honorable member from Virginia, [Mr. GILES] that the amendment proposed the day before yesterday, had not been agreed to. His astonishment would have been lessened had that honorable member adverted to what fell from another honorable member from Virginia, [Mr. NICHOLAS] who yesterday supported this motion with great ability and eloquence. He had avowed, and the avowal did honor to his candor and spirit, that the amendment in question did not alter the principle of the resolution. For that reason, he declared he had voted for the amendment, because the resolution, under any possible modification, would carry with it the same meaning. I am also of this opinion, said Mr. H., and for that reason I voted against the amendment; I voted against it, because I thought the principle of the resolution wrong, and that after the amendment the principle still remained. My high respect for the mover of the amendment, my confidence in his candor, forbid me to doubt that the amendment was intended to produce the effect pointed out by him, to take away from the resolution all those properties which he regarded as objectionable. But he will pardon me for saying that the resolution, as amended, appeared to me a masked battery, a sap instead of a storm, an ambuscade instead of an open attack, a pill, whose gilding renders it fairer to the eye, and more pleasant to the taste, but leaves all its poison lurking within. With this view of the subject, and because he liked those measures best which were the least disguised, which carry their tendency most plainly on the face of them, Mr. H. had voted against the amendment, that those who disliked the principle of the resolution might meet it in all its strength.

When this motion for calling on the PRESIDENT for the instructions and papers relative to the British Treaty was first brought forward, an honorable member from Connecticut, [Mr. TRACY] had risen in his place, and with great propriety requested the mover and supporters of the resolution to state the precise use intended to be made of these papers. Did they comply with this request? No, they could not. Mr. H.'s reliance on their candor forbid him to suppose that they could, but would not. The fact was, that they did not; and he therefore supposed that it was not in their power. They had talked much of the necessity of understanding fully the course of the negotiation; of the benefits of information on all Legislative subjects; of the propriety of publicity in all the acts of Government.

A gentleman from Georgia [Mr. BALDWIN] had observed, that publicity was always desirable in Governmental proceedings; more especially in the proceedings of Republican Governments. He had informed the House, that his mind had for a long time inclined more and more to this opinion, and

he had at length become completely convinced that nothing was more important, nothing more desirable, than publicity in all our public transactions. Mr. H. thought it much to be regretted that the honorable member from Georgia had not arrived at this state of complete conviction previously to the last motion in that House for clearing the galleries. He would then, no doubt, have opposed the motion. He would have argued with his usual ingenuity on the advantages of publicity, and would probably have succeeded in convincing the House that its galleries ought always to be kept open, that none of its proceedings ought to be hidden from the public eye. But still it would have remained for him to prove, that because we chose to adopt publicity in our proceedings, we have a right to direct the Executive on the subject, and require him to publish his proceedings also. Information about the Executive proceedings would no doubt be agreeable to the people, from whom the PRESIDENT derives his authority, and not from the House. To the people he is accountable; and if he should think fit to withhold from them information, by receiving which they would be gratified, he was the proper judge of the propriety of doing so, and must answer for his conduct. The House had no right to direct him. If the House had such a right over the Executive, he being also a representative of the people, equally bound to consult their interests, their rights, and their wishes, must have the same right over the House, and might in his turn direct them how far they ought to make their proceedings public for general information. A motion had for some time been laid on the table, by an honorable member from Virginia, tending to exclude printers from the House. There could be no doubt about the power of adopting such a measure, though its expediency would probably have been found liable to very strong objections. Suppose it had been adopted, and that the PRESIDENT had sent a Message informing the House, that publicity in the proceedings of Government was a very desirable and necessary thing, that he wished to know the grounds and reasons of measures that might be adopted, and that the resolution ought to be rescinded. How would such a Message be received? Yet it would be perfectly justifiable on all the reasons of general publicity which had been urged in favor of the present resolution. If the House had a right to direct the Executive on this subject, it must, by the same principles, have a right also to direct the Senate. The deliberations which led to the ratification of a Treaty in the Senate are as important to be publicly known, as the negotiation which led to its being signed by the Minister. We ought, therefore, if we act consistently, to request the Senate to let their gallery remain open for general information, while they discuss Executive subjects. The Senate must have the same right to make this request of the House. Suppose the Senate should send us a resolution, requesting us not to shut our galleries, or not to exclude printers from the Hall? How would it be received? Certainly with great indignation;

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and yet on the principles contended for, it would be perfectly right.

These being the objections to the principle of calling for papers for general information, Mr. H. presumed, that it was not on this ground these papers were to be requested, but for some precise specific purpose, to enable the House to exercise some Legislative function. What were these functions? First—To institute an inquiry into the conduct of those who had been concerned in making the Treaty. Second—To take up the Treaty itself, and judge how far, and in what manner, it should be carried into effect. These were the only possible functions which the House could exercise on the subject of a Treaty; and they were functions entirely distinct. It had been rightly observed by a gentleman from Pennsylvania [Mr. GALLATIN] that if an inquiry into the conduct of those who made the Treaty were the object, it ought to have been stated in the preamble of the resolution. But this is so far from being done, that its advocates declare the PRESIDENT to be far removed above suspicion, and intimate no intention of calling any other person to account. But it was asked, how could members know what use would be made of evidence till it was produced? He asked, in his turn, whether this evidence had been kept secret. Far otherwise. The mover of this resolution, as Chairman of the Committee on American Seamen, together with the whole committee, had been allowed access to these papers, and had inspected them. The same privilege, he doubted not, would be given to any member of that House who would request it. As the papers, then, had been seen, as their contents were known, gentlemen might state the precise use intended to be made of them, and ought to do so. Should a motion be made for the production of these papers, for the purpose of instituting an inquiry into the conduct of the negotiator, or any of those concerned in making the Treaty, he would second and support the motion. If this object was intended, it might and ought to be stated, and till that was done, the motion ought not to be agreed to on that ground.

It had been alleged that publicity in this business was avoided—that the light was shunned. Far otherwise. He wished the papers in question were laid on the table; it would be gratifying to him, and he believed much to the credit of all concerned; but he could not consent to call for them, because that implied a right to possess them, which he could never admit.

The second use, he observed, that might be made of these papers, was to give the House information on some of those Legislative questions which it might be called to decide respecting the Treaty. Much difference of opinion had arisen about the Legislative powers and discretion of the House on the subject of Treaties. Some gentlemen extended this discretion very far; others confined it within very narrow limits. This question had been very ably discussed; but if it had not, he should not now enter into it, because he thought it unnecessary to the present decision. The question was, Are these papers necessary for

enabling the House to exercise such discretion as it possesses on the subject? He believed, that taking this discretion in the utmost latitude that had been contended for, the papers were not necessary for its full exercise. What was the discretion contended for? It was threefold. 1. To judge about the constitutionality of the Treaty; 2. To discuss the meaning of doubtful passages; and, 3. To consider of the propriety of making appropriations, or passing laws for carrying it into effect. As to its constitutionality, it must be decided by the instrument itself; it must be compared with the Constitution, and judged by the result. If Constitutional, on the face of it, none of the previous negotiations by which it was brought about, none of the instructions under which it was framed, could make it otherwise. So, on the other hand, if unconstitutional in itself, the defect cannot be cured by the instructions or previous correspondence. So, as to doubtful passages, it was a constant and invariable maxim that every deed, every law, every written instrument of any sort, was to be judged of and explained by itself, and not by recurrence to other matter. This was the universal practice of the Courts of Law, who, when called on to expound an act of the Legislature, never resorted to the debates which preceded it—to the opinions of members about its signification—but inspected the act itself, and decided by its own evidence. Should this rule be departed from, the basis of law and of right would be removed; all the advantages of written records would be lost, and we should wander into the wide fields of uncertainty and opinion.

It had been remarked, by the honorable member from Pennsylvania, that, in the dispute between our Government and Britain, about the meaning of the sixth article of the Treaty of Peace, the correspondence, and even the journals of the negotiators, had been resorted to. This was highly proper, Mr. H. said, when the parties themselves to a contract enter into a discussion about its meaning, because they may explain it as they can mutually agree. But the Treaty presented itself to that House as a law, and it must of course be expounded according to the rule for expounding laws. Besides, one party to a contract had no power to alter it, and consequently must take it up and act upon it, not as it might have been intended to be, but as it is on the face of it. Two Ministers, moreover, engaged in a diplomatic contest, like lawyers defending a cause, would resort to every topic by which they hoped to strengthen their argument; but the House acted judicially, and, instead of following them in these excursions, must confine its view to the instrument itself, and explain its provisions by its strict letter. If they departed from the instrument itself, they might go not only into correspondences, but into the deliberations of the Senate, and the consultations of the PRESIDENT; nor would there be any further limit by which they could be stopped.

As to appropriations, Mr. H. had no doubt that the House might withhold them in the same manner that they might withhold appropriations for any other law, or that the PRESIDENT might refuse

to appoint officers under a law which he should deem totally subversive of the public good. Every branch of the Government, in extreme cases, has a right to oppose itself to the other branches, and arrest the progress of destructive measures. The Judicial power might make a stand, and refuse to execute a law. This discretion, he trusted, would never be used. It must, indeed, be a desperate case which would justify its use. This discretion of the House to refuse appropriations being admitted, how were the papers in question necessary to its exercise? A Treaty is made, and we are called upon to carry it into effect. What, then, is the question which this discretion enables us to ask? Not whether the Treaty be good or bad; not whether it was proper to make a Treaty at all, or whether a better one might have been made: all these considerations belong to the Treaty-making power, which is vested in the PRESIDENT and Senate. But the question was, whether the Treaty be so bad that the public welfare requires it to be broken; whether it is a less evil to abandon our national faith—to destroy the respectability of our Government in the eyes of foreign nations—to hazard disunion and contest between the different departments of the Government—or to execute the Treaty as it stands. This was the question, and the only one; and how were these papers necessary in deciding this question? If the Treaty were so bad that it ought to be broken, that would sufficiently appear on the face of it. Its provisions would speak for themselves, and nothing in the correspondence or instructions could be necessary to show their deformity. They might show that the Treaty was unskillfully negotiated; that it was unwisely agreed to; that better terms might then, or might now, be obtained—but all this, if fully established, would not authorize us to break it: otherwise it would follow, that either party to a contract might violate it whenever he should happen to think it disadvantageous.

Mr. HARPER illustrated his position by the following simile: If a man attempt my life, I have a right to kill him for my own preservation. I could not inquire whether he were a good or a bad man; whether his disposition towards me was hostile or friendly; but solely whether self preservation required his death. If my life were not in immediate danger from his attempts, however criminal his intentions or his conduct might have been, it would be murder to kill him.

The House, he said, passed an annual appropriation for the Military Establishment. Could they refuse this appropriation merely because they disliked the establishment, and wished it to be reduced? Surely no one would say so. But if they should be convinced that the Military Establishment was about to become highly mischievous and dangerous, they could destroy it by withholding the appropriation. This would be an extreme case. And in like manner an appropriation for carrying a Treaty into effect might in extreme cases be refused. The question in all such cases would be, which is the greatest evil, to break the Treaty, at the risk of public faith, of national honor, or to carry it into effect? And this ques-

tion, he would once more repeat, must be decided by the provisions themselves as they appear on the face of the instrument. The papers could be in no wise necessary to the decision. To call for them, implied a right to rejudge the wisdom, the expediency of the Treaty, after those points had been decided by the proper authorities—a right destructive of the principles of the Constitution. The harmony of the Government, he said, depended on keeping the business of each department separate from the other. If one branch encroached on the rest, destruction to the whole must be the consequence. The Constitution had defined the powers, had limited the sphere, of each department. The Constitution is the will of the people, in whom the sovereign power resides, and we are bound to obey it. We are as much bound to preserve it from our own encroachments as from those of the other branches. It was his love of the Constitution, his love of the people, his respect for their rights, and his belief in their sovereignty, which induced him to propose this motion. If the Constitution was infringed, whether by the House or the other departments, the rights, the sovereignty of the people were equally trampled on, and it would be no consolation to them that it was done by one hundred and five men, rather than by thirty, or rather than by one.

Mr. GALLATIN conceived that, whether the House had a discretionary power with respect to Treaties, or whether they were absolutely bound by those instruments, and were obliged to pass laws to carry them fully into effect, still there was no impropriety in calling for the papers. Under the first view of the subject, if the House has a discretionary power, then no doubt could exist that the information called for is proper; and, under the second, if bound to pass laws, they must have a complete knowledge of the subject, to learn what laws ought to be passed. This latter view of the subject, even, must introduce a discussion of the Treaty, to know whether any law ought to be repealed, or to see what laws ought to be passed. If any article in the instrument should be found of doubtful import, the House would most naturally search for an explanation, in the documents which related to the steps which led to the Treaty. If one article of the Treaty only be doubtful, the House would not know how to legislate without the doubt being removed, and its explanation could certainly be found nowhere with so much propriety as in the correspondence between the negotiating parties. He incidentally answered a reference made in a former part of the debate, to something that had dropped from him on the Federal City Loan Bill. He on that occasion insisted that the law for the permanent establishment of the Seat of Government should not be looked on as a bargain; that whatever might have been the views of the members who framed it, that could not derogate from the nature of the law; and because the law was no bargain, he was of the opinion he then expressed; whereas a Treaty is a bargain. But even, he insisted, if the House was not to legislate upon the Treaty, they still have a right to express an opinion on any important subject, and

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this they could not do understandingly without information, and in this case without an examination of the instructions and correspondence that led to the Treaty, and of the other documents that related to the subject.

Gentlemen had gone into an examination of an important Constitutional question upon this motion. He hoped this would have been avoided in the present stage of the business; but as they had come forward on that ground he had no objection to follow them in it, and to rest the decision of the Constitutional powers of Congress on the fate of the present question. He would, therefore, state his opinion, that the House had a right to ask for the papers proposed to be called for, because their co-operation and sanction was necessary to carry the Treaty into full effect, to render it a binding instrument, and to make it, properly speaking, a law of the land; because they have a full discretion either to give or to refuse that co-operation; because they must be guided, in the exercise of that discretion, by the merits and expediency of the Treaty itself, and therefore had a right to ask for every information which could assist them in deciding that question.

One argument repeatedly used by every gentleman opposed to the present motion was, "That the Treaty was unconstitutional or not; if not the House had no agency in the business, but must carry it into full effect; and if unconstitutional, the question could only be decided from the face of the instrument, and no papers could throw light upon the question." He wished gentlemen had defined what they understood by a Constitutional Treaty; for, if the scope of their arguments was referred to, it would not be found possible to make an unconstitutional Treaty. He would say what he conceived constituted the unconstitutionality of a Treaty. A Treaty is unconstitutional if it provides for doing such things, the doing of which is forbidden by the Constitution; but if a Treaty embraces objects within the sphere of the general powers delegated to the Federal Government, but which have been exclusively and specially granted to a particular branch of Government, say to the Legislative department, such a Treaty, though not unconstitutional, does not become the law of the land until it has obtained the sanction of that branch. In this case, and to this end, the Legislature have a right to demand the documents relative to the negotiation of the Treaty, because that Treaty operates on objects specially delegated to the Legislature. He turned to the Constitution. It says, that the PRESIDENT shall have the power to make Treaties, by and with the advice and consent of two-thirds of the Senate. It does not say what Treaties. If the clause be taken by itself, then it grants an authority altogether undefined. But the gentlemen quote another clause of the Constitution, where it is said that the Constitution, and the laws made in pursuance thereof, and all Treaties, are the supreme law of the land; and thence, they insist that Treaties made by the PRESIDENT and Senate are the supreme law of the land, and that the Power of making Treaties is undefined and unlimited. He proceeded to controvert this

opinion, and contended that it was limited by other parts of the Constitution.

That general power of making Treaties, *undefined* as it is by the clause which grants it, may either be expressly *limited* by some other positive clauses of the Constitution, or it may be *checked* by some powers vested in other branches of the Government, which, although not diminishing, may control the Treaty-making power. Mr. G. was of opinion that both positions would be supported by the Constitution; that the specific Legislative powers delegated to Congress were limitations of the undefined power of making Treaties vested in the PRESIDENT and Senate, and that the general power of granting money, also vested in Congress, would at all events be used, if necessary, as a check upon, and as controlling the exercise of the powers claimed by the PRESIDENT and Senate.

The Treaty-making power is limited by the Constitution, when in the first section it is said that all Legislative power is granted to Congress. To construe the Constitution consistently, we must attend to all the sections of it. If it is attempted to be construed by referring to particular portions, and not attending to the whole, absurdities must arise. So in the present case, by the mode of construction advanced by the gentlemen opposed to the motion. By one section it is declared that a Treaty is the supreme law of the land, that it operates as a law; yet it is to be made by the PRESIDENT and Senate only. Here will be an apparent contradiction; for the Constitution declares that the Legislative power shall be vested in the three branches. By this construction there would appear to be two distinct Legislatures. How shall this apparent contradiction be reconciled? Some gentlemen, to solve the difficulty, had declared the Treaty-making power to be an Executive power; but a power of making laws cannot be termed Executive without involving an absurdity; the power of making Treaties, although called an Executive power, is transformed into a Legislative one by those gentlemen.

The power of making Treaties is contended to be undefined, then it might extend to all subjects which may properly become the subjects of national compacts. But, he contended, if any other specific powers were given to a different branch of the Government, they must limit the general powers; and, to make the compact valid, it was necessary that, as far as those powers clashed with the general, that the branch holding the specific should concur and give its sanction. If still it is insisted that Treaties are the supreme law of the land, the Constitution and laws are also; and, it may be asked, which shall have the preference? Shall a Treaty repeal a law or a law a Treaty? Neither can a law repeal a Treaty, because a Treaty is made with the concurrence of another party—a foreign nation—that has no participation in framing the law; nor can a Treaty made by the PRESIDENT and Senate repeal a law, for the same reason, because the House of Representatives have a participation in making the law. It is a sound maxim in Government, that it requires the same

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power to repeal a law that enacted it. If so, then it follows that laws and Treaties are not of the same nature; that both operate as the law of the land, but under certain limitations; both are subject to the control of the Constitution; they are made not only by different powers, but those powers are distributed, under different modifications, among the several branches of the Government. Thus no law could be made by the Legislature giving themselves power to execute it; and no Treaty by the Executive, embracing objects specifically assigned to the Legislature without their assent.

To what, he asked, would a contrary doctrine lead? If the power of making Treaties is to reside in the PRESIDENT and Senate unlimitedly; in other words, if, in the exercise of this power, the PRESIDENT and Senate are to be restrained by no other branch of the Government, the PRESIDENT and Senate may absorb all Legislative power—the Executive has, then, nothing to do but to substitute a foreign nation for the House of Representatives, and they may legislate to any extent. If the Treaty-making power is unlimited and undefined, it may extend to every object of legislation. Under it money may be borrowed, as well as commerce regulated; and why not money appropriated? For, arguing as the gentlemen do, they might say the Constitution says that no money shall be drawn from the Treasury but in consequence of appropriations made by law. But Treaties, whatever provisions they may contain, are law; appropriations, therefore, may be made by Treaties. Then it would have been the shortest way to have carried the late Treaty into effect by the instrument itself, by adding to it another article, appropriating the necessary sums. By what provision of the Constitution is the Treaty-making power, agreeably to the construction of the gentlemen, limited? Is it limited by the provisions with respect to appropriations? Not more so than by the other specific powers granted to the Legislature. Is it limited by any law past? If not, it must embrace every thing, and all the objects of legislation. If not limited by existing laws, or if it repeals the laws that clash with it, or if the Legislature is obliged to repeal the laws so clashing, then the Legislative power in fact resides in the PRESIDENT and Senate, and they can, by employing an Indian tribe, pass any law under the color of Treaty. Unless it is allowed that either the power of the House over the purse-strings is a check, or the existing laws cannot be repealed by a Treaty, or that the special powers granted to Congress limit the general power of Treaty-making, there are no bounds to it, it must absorb all others, repeal all laws in contravention to it, and act without control.

To the construction he had given to this part of the Constitution, no such formidable objections could be raised. He did not claim for the House a power of making Treaties, but a check upon the Treaty-making power—a mere negative power; whilst those who are in favor of a different construction advocate a positive and unlimited power.

Since this is the striking difference between the doctrine held by the friends and by the opposers of the present motion, why, added Mr. G., with some warmth, are the first endeavored to be stigmatized as rebellious, disorganizers, as traitors against the Constitution? Do they claim a dangerous active power? No, they only claim the right of checking the exercise of a general power when clashing with the special powers expressly vested in Congress by the Constitution.

He should not say that the Treaty is unconstitutional, but he would say that it was not the supreme law of the land until it received the sanction of the Legislature. He turned to the Constitution. That instrument declares, that the Constitution, and laws made in pursuance thereof, and Treaties made under the authority of the United States, shall be the supreme law of the land. The words are “under the authority of the United States,” not signed and ratified by the PRESIDENT: so that a Treaty, clashing in any of its provisions with the express powers of Congress, until it has so far obtained the sanction of Congress, is not a Treaty made under the authority of the United States.

Gentlemen had dwelt much on that part of the Constitution which had declared the Constitution, Laws, and Treaties, laws of the land; but they had avoided reading the whole of the clause, and had not given to it its obvious meaning. Why should the Constitution barely declare the Constitution the law of the land, the laws the law of the land, or Treaties the law of the land? All know that they are so. In all countries they are so, because made by the supreme authority, but, by adverting to the latter part of the clause, the meaning of the former must immediately become obvious. It runs as follows: “And the Judges in every State shall be bound thereby; any thing in the Constitution or laws of the individual State to the contrary notwithstanding.” It would have been childish if the Constitution had confined itself to expressing the first part of the clause; because no doubt could arise whether the Constitution, laws, and Treaties, were the supreme law of the land. But, as the General Government sprung out of a confederation of States, it was necessary to give that Government sufficient authority to provide for the general welfare, that the laws of the Union should supersede those of the particular States. There was thus a valuable purpose to be obtained by the latter part of the clause, viz: a positive provision declaring which authority should be supreme in case of clashing powers.

But the clause does not compare a Treaty with the law of the United States, or either of them with the Constitution; it only compares all the acts of the Federal Government with the acts of the individual States, and declares that either of the first whether under the name of Constitution, law, or Treaty, shall be paramount to and supersede the Constitution and laws of the individual States. In that point of view are Treaties said to be the supreme law, to wit: when standing in competition against acts of the several States;

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but the clause by no means expresses that Treaties are equal or superior to the laws of the Union, or that they shall be supreme law when clashing with any of them.

To illustrate: He supposed that the Pennsylvania Legislature were to pass an act incorporating the city of Philadelphia, granting to certain bodies the power to make regulations which should be the supreme law of the land; this would mean only that they were so within their proper sphere, and not that they were paramount to the laws of the State or of the Union. The same of Treaties: they are declared to be the supreme law of the land, within the provisions of the Constitution, and agreeably to the modifications therein provided; but they are not declared to be supreme when compared, or paramount to the laws of the United States. The Constitution is paramount to both laws and Treaties; and, when gentlemen ground their arguments on the position that Treaties are superior or equal to the laws of the Union, they take for granted the very thing which is to be proved. The natural construction of the Treaty-making power, was this, he contended, that, as far as a Treaty negotiated by the Executive embraced Legislative objects, so far it required the sanction of the Legislature.

To give some additional weight to this construction of the Constitution, the practice of the British Government had been quoted. It was certainly proper, when about to construe our own Constitution, to compare it with the operation of the Constitutions of other countries that resemble ours in those parts to the construction of which doubts are raised. Whether there is a similarity in general between the British Constitution and ours, is not the question: he hoped they would not be assimilated more than they really were. But, he contended, as to the Treaty-making power, they were in fact, perfectly similar. Both nations give the power of negotiating Treaties to their Executives: there the King exercises it; here the Senate, being a part of the Executive, exercises it in conjunction with the PRESIDENT. The only difference here is, that two-thirds of the Senate are necessary to their formation. In other respects the power is the same in the two countries. There the Executive authority has enjoyed this power from time immemorial; and here the PRESIDENT and Senate possess it by the letter of the Constitution. It may be said that Great Britain has no written Constitution: true, but the force of immemorial custom forms their Constitution.

He read a quotation from *Blackstone*, page 257, vol. i., to show that the power of Treaty-making in England is as extensively vested in the King, as it can possibly be said to be here in our Executive.

The following is the passage alluded to:

"II. It is also the King's prerogative to make Treaties, leagues, and alliances with foreign States and Princes. For it is, by the Law of Nations, essential to the goodness of a league, that it be made by the sovereign power, and then it is binding upon the whole

community: and, in England, the sovereign power, *quo ad hoc*, is vested in the person of the King. Whatever contracts, therefore, he engages in, no other power in the Kingdom can legally delay, resist, or annul."

After such a latitude as this clause gives, it would be supposed that there could be no check reserved upon this power; yet it will be found that Parliament have a participation in it. And the apparent inconsistency is easily reconciled by observing that the power given generally to the Executive of making contracts with other nations, does not imply that of making Legislative regulations, but that when the contract happens to embrace Legislative objects, the assistance of the Legislature becomes necessary to give it effect.

He proceeded to show the operation of this limitation of the Treaty-making power in England by the practice of Parliament. It was always considered as discretionary with Parliament to grant money to carry Treaties into effect or not, and to repeal or not to repeal laws that interfere with them. In citing instances of the exercise of this power, he should not go further back than their Revolution.

He then read several extracts from *Anderson's History of Commerce*, vol. iii., pages 269, '70, '71, '72. They are so much in point that we transcribe the most material passages:

"But we could not omit our animadversions on the eighth and ninth articles, as they were so extraordinary in themselves, and as they occasioned so great a stir and uneasiness at that time, as to have brought the whole Treaty of Commerce to miscarry then and ever since.

"ART. IX. That within the space of two months after a law shall be made in Great Britain, whereby it shall be sufficiently provided that not more customs or duties be paid for goods and merchandise brought from France into Great Britain than what are payable for goods and merchandise of the like nature, imported into Great Britain from any other country in Europe; and that all laws made in Great Britain since the year 1664 for prohibiting the importation of any goods or merchandise coming from France, which were not prohibited before that time, be repealed, the general tariff in France, on the 18th of September, in the said year 1664, shall take place there again, and the duties payable in France by the subjects of Great Britain for goods imported and exported, shall be paid according to the tenor of the tariff above mentioned.

"When the said two articles came to be known by the merchants of Great Britain, they were received with the utmost surprise and indignation, and the clamor was loud and universal.

"That the complying with those two articles would effectually ruin the commerce we carried on to Portugal—the very best branch of all our European commerce. That the said eight articles did, in general terms, put France on an equal footing with Portugal or any other of our best allies, in point of commerce.

"This is, in brief, the sum of this mercantile controversy, which, when brought into Parliament, it was so apparent that our trade to France had ever been a ruinous one, and that if, in consequence of accepting the said eighth and ninth articles, the British Parliament should consent to reduce the high duties and take off the prohibitions so prudently laid on French commodities it would effectually ruin the very best

branches of our commerce, and would thereby deprive many hundred thousand manufacturers of their subsistence; which was also supported by petitions from many parts of the Kingdom: That, although a great majority of that House of Commons was in other respects closely attached to the ministry, *the bill for agreeing to the purport of the said two articles was rejected by a majority of nine voices*, after the most eminent merchants had been heard at the bar of that House, to the great joy of the whole trading part of the nation, and of all other impartial people."

Thus it must be clearly seen, that the consent of Parliament was not only deemed necessary to the completion of the Treaty, but that that consent was refused, and that in consequence the Treaty fell to the ground, and was not revived for a period of near eighty years, and all notwithstanding the plenitude of the Treaty-making power, said by the best English authority, *Blackstone*, to be vested in the King; which was, however, he repeated, necessarily checked by the special powers vested in Parliament; for none but they could grant money, or repeal the laws clashing with the provisions of Treaties.

He cited another instance of the exercise of this controlling power in Parliament of even a later date, viz: in the year 1739, in the case of a Treaty between Spain and Great Britain, which was sanctioned by a very small majority indeed in Parliament. He cited a third example from *Anderson*, Vol. VI., page 828, in the case of the Treaty of Commerce between France and Great Britain, to show, that the practice of the Parliament's interfering in Treaties is not obsolete.

The following is an article of the said Treaty, which Mr. GALLATIN read:

"XIV. The advantages granted by the present Treaty to the subjects of his Britannic Majesty shall take effect, as far as relates to the Kingdom of Great Britain, as soon as laws shall be passed there, for securing to the subjects of His Most Christian Majesty, the reciprocal enjoyment of the advantages which are granted to them by the Treaty.

"And the advantages by all these articles, except the tariff, shall take effect with regard to the Kingdom of Ireland, as soon as laws shall be passed there, for securing to the subjects of His Most Christian Majesty, the reciprocal enjoyment of the advantages which are granted to them by this Treaty; And, in like manner, the advantages granted by the tariff shall take effect in what relates to the said Kingdom, as soon as laws shall be passed there for giving effect to the said tariff."

Upon this principle, founded on almost immemorial practice in Great Britain, did the Minister of that Kingdom, when introducing the late Treaty with Prussia into Parliament, tell the House that they will have to consider the Treaty and make provision for carrying it into effect. On the same principle, when the debate took place on that instrument, it was moved to strike out the sum proposed to be voted, which would have defeated it, and afterwards to strike out the appropriation clause, which would have rendered the bill a mere vote of credit, and would also have caused the Treaty to fall to the ground. On the same principle, the King of Great Britain,

when he mentioned the American Treaty, promised to lay it before them in proper season, that they might judge of the propriety of enacting the necessary provisions to carry it into effect.

It remains to be examined, said Mr. G., whether we are to be in a worse situation than Great Britain; whether the House of Representatives of the United States, the substantial and immediate representatives of the American people, shall be ranked below the British House of Commons; whether the Legislative power shall be swallowed up by the Treaty-making authority, as contended for here, though never claimed even in Great Britain?

In Great Britain, he remarked, the Treaty-making power is as undefined as in America. The Constitution here, declares that the President and Senate shall make Treaties; there, custom says as loudly, that the King shall make them. In Great Britain, however, the power is limited, by immemorial custom, by the exercise of the Legislative authority by a branch distinct from the regal; in the same manner is it limited here, not however merely by custom and tradition, but by the words of the Constitution, which gives specifically the Legislative power to Congress; and he hoped this authority would be exercised by the House with as much spirit and independence as anywhere.

He had at first imagined, that the doctrine contended for by the gentlemen, viz: that the House had no discretion in the business; but that, like machines, they were bound to pass the necessary provisions to carry into effect the Treaty, was quite new. He had, however, after much search, found a precedent to keep this strange doctrine in countenance here; at least as far as the right of granting money was concerned. Under the old Government of France, the Courts of Justice, nicknamed Parliaments, had a nominal control over the purse-strings, such as that here contended for. If the King laid a tax, they were to register it; but if they refused, they were either forced to comply, or the King raised the money without them. Thus here, though the House have by the Constitution, a particular and express control over the purse, yet they are told they must register; or that, if they do not, it is treason against the Government.

A gentleman from Connecticut up to-day, had asked, whether the advocates for the doctrine of free agency would refuse appropriating money for a salary fixed by law, in obedience to the Constitution, urging, that if they did, they would commit a breach of the Constitution, and if they did not think themselves authorized to refuse, they must abandon their doctrine.

Mr. G. observed, that the power of raising revenue and appropriating money is vested in Congress, and they are to exercise their discretion in the business; yet as a special clause of the Constitution says, that the salaries of certain officers shall not be increased or diminished during their term of service, so far this operates as a restricting exception upon the general powers; but was this the case as to the Treaty-making power?

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Does any clause of the Constitution direct that money *shall* be appropriated to carry into execution any Treaty made by the President and Senate, however clashing with the special powers of the House? Before the two cases can be considered parallel, it must be proved that Treaties are paramount to the Constitution; for on that supposition alone rests the arguments that they, like the Constitutional clauses relative to the salaries of the President and Judges, are special exceptions to that general discretion which the House has a right to exercise on all Legislative subjects, and especially on all money matters.

But if, as it was said, the powers specifically delegated to the House, are not to operate as a limitation of the general powers granted to the President and Senate; if these powers are contended to be as unlimited as they are undefined, then the necessity of a check must strike as doubly necessary. The power of granting money should be exercised as a check on the Treaty-making power. The more unlimited the Treaty-making power is contended to be, the more dangerous it is, and the more should the House consider the power of originating grants of money exclusively vested in them as a precious deposit.

He maintained, that the Treaty with Great Britain, or any other in similar circumstances, was not, until the necessary appropriations were made, and until the existing laws that stood in its way were repealed, and the requisite laws enacted, the supreme law of the land. Existing laws declare, that goods shall not be imported by land into the United States, except in certain districts; the third article of the Treaty allows a general importation; the laws declare that foreign vessels trading with us shall pay an additional ten per cent. upon the duties paid by our own vessels, the same article again interferes here; in other particulars, also, but these are sufficient to illustrate. Now, if the doctrine of gentlemen be sanctioned, and the House have no discretion left to use on the Treaty, but are bound thereby, specific and explicit clauses in the Constitution notwithstanding, the power of granting money becomes nugatory, and a Treaty, made by the Executive, may repeal a law. If a Treaty can repeal a law, then the act of the President and Senate can repeal the act of the three branches; and although all Legislative powers be vested in Congress by the Constitution, yet Congress are controlled by two of its branches; those clauses of the Constitution vesting the Legislative powers in Congress are annihilated, and the President and Senate, by substituting a foreign nation for the House of Representatives, assume, in fact, an unlimited Legislative power; since, under color of making Treaties, they may repeal laws, and may enact laws.

If this doctrine is sanctioned, if it is allowed, that Treaties may regulate appropriations and repeal existing laws, and the House, by rejecting the present resolution declare, that they give up all control, all right to the exercise of discretion, it is tantamount to saying, that they abandon their share in legislation, and that they consent the

whole power should be concentrated in the other branches. He did not believe such a doctrine could be countenanced by the House. If gentlemen should insist upon maintaining this doctrine, should deny the free agency of the House, and their right to judge of the expediency of carrying the Treaty into effect, the friends to the independence of the House will be driven to the necessity to reject the Treaty, whether good or bad, to assert the contested right. If the gentlemen abandoned this ground, then the policy of the measure could be weighed on fair ground, and the Treaty carried into effect, if reconcilable to the interests of the United States. He concluded by observing, that even if the right did not exist in the House to judge of the expediency of carrying the Treaty into effect, yet as they were to be made agents in the business, at least in form, they could not be denied the papers, to see the reasons which led to the formation of the Treaty; and even on that ground it had been said, that we had nothing to do either with the merits of the Treaty, or with the motives of those who made it. He recollected but one late instance of a precedent for sentiments he had lately heard, with so much surprise, on the floor of the House, and that was the sentiment expressed by a Reverend Bishop in England lately, who contended, that the people had nothing to do with the laws but obey them. The gentlemen here, however, carry the doctrine still farther; for they insist, that even the Representatives of the People have not a right to consult their discretion when about exercising powers positively delegated to them by the Constitution.

He hoped this dangerous doctrine would receive a death-blow, and that the Committee would adopt the resolution.

The Committee rose, and obtained leave to sit again.

The House then adjourned.

MARCH 10.—In Committee of the Whole, on Mr. LIVINGSTON'S resolution Mr. HARTLEY delivered his sentiments as follows:

As I was not present when this subject was first introduced, it cannot be expected that I should take any great share in the debate; but some observations I have heard, chiefly from the gentleman last up yesterday from Pennsylvania, have induced me to show a few grounds for my vote.

That gentleman has strongly combined this resolution with the Treaty, and wishes that every one who holds that there should be a co-operation of this House respecting that instrument, should vote for the resolution. I think differently.

The gentlemen who contend for the mighty power of the Executive and Senate, as well as those who argue for the great authority of this House, perhaps are on extremes; but the Treaty ought not now to be so largely under consideration. I am willing, if it is thought proper, to take it up at an early day, and, after a full hearing, will vote as I hold right.

The gentleman I referred to, from Pennsylvania, argued most strenuously that the laws and customs of Great Britain and the Constitution of

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the United States were analogous—nay, that the powers were precisely the same.

The gentlemen who hold this doctrine have made researches, and have quoted several authorities; but why have not those ingenious gentlemen discovered a single instance where the British House of Commons have had the instructions given by the Executive to the negotiating Minister laid before them. If there was such a power, no doubt that body would at some period have exercised it; for no men on earth have extended the power of privileges which they had further than the members of the House of Commons of Britain.

As those gentlemen who contend for the likeness—indeed, sameness of the Treaty-making powers of both countries—can show no precedent, it may be fairly contended, that no such right exists as is contemplated by the resolution.

Treaties are made under the Executive in almost all countries, and when the Ministers have gone through their part of the business, the Treaty is commonly laid before the nation. If any national act is further necessary, it would pass in conformity to the principles of good faith; if anything is necessary (consistent with the Constitution) on the part of the House, it will be the discussion of another day.

Instructions to Ministers to treat are most frequently of two kinds—public and private; the former are sometimes shown to the opposite party, the latter not.

In Executive acts there may be, in some cases, a necessity for secrecy.

There was a misunderstanding between this country and Great Britain; there were charges of infraction and misconstruction of a former Treaty; then, is it not to be supposed there were secret instructions given to our Plenipotentiary in the late Treaty? Our negotiations with Britain, it seems, are not yet at an end: any new articles agreed to, and ratified, are to be added to the Treaty.

Besides, I believe we have other negotiations going on elsewhere. The disclosure of any of the instructions, being connected with others, might put us in the power of other nations without producing any good to us.

The constitutionality of the resolution may be denied; at any rate, I consider it as highly impolitic and improper.

I hope that those gentlemen who do not think that the resolution must be combined with the Treaty, whatever their ideas may be with regard to the Treaty, will vote against the motion.

Mr. GRISWOLD said, that the resolution on the table appeared at first view to be perfectly innocent, and, he might add, of very little importance. It amounted to no more than a request to the PRESIDENT to furnish the House with papers relating to the negotiation with Great Britain, which he might either satisfy or reject. But the discussion which had taken place in the Committee had given the subject a very serious aspect, and involved a question of the first importance; and although some gentlemen had thought that the

Committee had prematurely involved itself in the examination of the question, he could not see how the discussion could have been avoided. For gentlemen would not say that any resolution—more particularly a resolution calling on the PRESIDENT for documents belonging to the Executive Department—was to pass the House without a conclusive reason, much less without any reason for its passing. On this principle gentlemen had been called on at an early period for the reasons on which they grounded the resolution. They had attempted to assign reasons, but those reasons had been generally abandoned; and it could not at that time be seriously contended that the objects of general information or publicity, which had been first mentioned, could justify the House in calling on the PRESIDENT for papers relating to the British Treaty, or that those papers were necessary to enable the House to judge of the constitutionality of the Treaty. The friends of the resolution, aware of this, had at last come forward and assigned a new and a very important reason. It had been now said, that the House of Representatives have a right to judge over the heads of the PRESIDENT and Senate on the subject of Treaties; that no Treaty can become a law until sanctioned by the House; and, in fine, that the House of Representatives is a Constitutional part of the Treaty-making power.

If these facts and the principles which grow out of them are true, he could not say that the resolution was improper; and although he did not know to what part of the Treaty the papers would particularly apply, yet, if the House were to take this extensive view of the Treaty, and ultimately to sanction or reject it, it would seem that the papers relating to the negotiation ought to be laid before them. But if these facts are not true, and the House is not a Constitutional part of the Treaty-making power, and the Treaty is already a law without its sanction, then the reason falls to the ground, and the resolution ought to be rejected.

This inquiry into the powers of the House of Representatives must be confined, and the question arising out of it must be decided by a fair construction of the Constitution. The powers of each branch of the Government are there limited and defined, and an accurate understanding of that instrument would enable gentlemen to decide the question?

In comparing these questions with the Constitution, gentlemen were not, however, to inquire whether that Constitution was a good or a bad one: whether too much power had been given to this or to that branch of the Government. The question will only be, what powers has the Constitution given, and to what departments have the same been distributed?

To render the subject as clear and distinct as possible, he thought it would not be improper to take an abstract view of those two powers in all Governments having foreign relations which are immediately connected with the inquiry, viz: the Legislative and the Treaty-making power. And if gentlemen can clearly fix in their minds the limits of each, they will become better enabled to

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see their operation, and to decide on the powers of the House in the exercise of them.

The Legislative power in all Governments is extremely broad; it occupies the most extensive ground; it extends to every object which relates to the internal concerns of the nation; it regulates the life, the liberty, and the property of every individual living within its jurisdiction; it can control commerce within its jurisdiction; govern the conduct of the nation towards aliens, in whatever capacity they may appear; and, in short, as certain English writers have said of the British Government, its power is almost omnipotent. Thus broad and extensive are the general powers of legislation, subject, however, to such particular restrictions as are prescribed by forms of Government, or which occasionally arise from the nature of Government itself, and limit the objects of its operation.

It is easy to see, that in the exercise of these Legislative powers it will frequently happen that laws are enacted, which, in their operation, will embarrass the intercourse of two nations. Such are always the effect of retaliating laws, and aliens within the limits of a foreign jurisdiction are frequently, by those regulations, subjected to great and unreasonable embarrassments.

The Treaty-making power operates in a very different manner: its power is limited and confined to the forming of Treaties with foreign nations; its objects are to facilitate the intercourse between nations; to remove by contract, those impediments which embarrass that intercourse, and to place the same on a fair and just foundation. In the exercise of this power, it will unavoidably happen that the laws of the Legislature are sometimes infringed. The Legislature, for certain causes—perhaps to compel a foreign nation to form a Treaty on terms of reciprocity—may prohibit all intercourse, or embarrass that intercourse with regulations so burdensome as to produce the same effect: the foreign nation finally becomes willing to treat, and to establish an intercourse on equitable terms. If, in this case, the Treaty power can not touch the laws of the Legislature, the object which gave rise to those very laws can never be attained; no Treaty can be formed, because it will oppose existing laws; those laws cannot be repealed, because the object for which they were enacted has not been attained. Such a construction of the Treaty power would defeat every object for which that power was established; and instead of possessing an authority to remove embarrassments in a foreign intercourse, it cannot touch them; and, although expressly created for the attainment of a single object, it can never attain it.

The principle might be elucidated by the following case: Two nations who have no existing Treaties with each other are induced by their respective Legislatures to enact countervailing and retaliating laws, and ultimately to carry these laws to such an extent as to render all intercourse impracticable: what is to be done? It will not do for either nation to repeal her laws, because neither can begin the measure. The Treaty power can alone interfere, and the two nations must do that

by compact which never could have been done by legislation. Mutual concessions must be made, and the embarrassing restrictions of countervailing laws must be taken away by Treaty.

Another case may be put down from a principle in the Constitution of the United States. The Legislative power of this Government declares war against a foreign nation; the war proceeds until every object is accomplished. How is this war to be terminated? It will not do for the Legislature to repeal the law which gave existence to the war: such a measure would disarm the nation, and leave the frontier unprotected; and if the Treaty power should interfere, and obtain a peace by negotiation, such a measure would be directly opposed to the law which created the war; and if peace was established by Treaty, the law which declared war would thereby be repealed. He asked, again, what is to be done? Is the war to be perpetual? Every gentleman in the Committee would say that the war is not to be perpetual, but that the Treaty power is alone competent to put an end to the war, by negotiation and by Treaty. And yet it is apparent, that in the exercise of this power a Legislative act is directly repealed.

From these considerations, he contended that, in the exercise of that power which related to the intercourse with foreign nations, the Treaty-making was paramount to the Legislative power; and that the positive institutions of the Legislature must give place to compact.

On this construction a perfect harmony is introduced into the departments of Government. Both the Legislative and the Treaty power are necessary, on many occasions, to accomplish the same objects. The Legislative power to establish regulations, or declare war, for the purpose of compelling a nation to agree to a reasonable compact; and the Treaty power, when that nation is compelled to agree to such reasonable compact, to remove by Treaty those very regulations, and the war itself, on fair and equitable terms.

A different construction would be productive of endless confusion and disorder. As these powers operate on the same objects, if the one is not subordinate to the other, they are thrown into the same field, to combat for power; and placed in a state of perpetual war with each other.

And why is not this construction right? What evil or violation of principle is to arise from it? All laws originate from the people. The laws enacted by the Legislature are nothing more than the expression of their will. And shall not the people have the power to annul, by one agent, those laws, which they have established by other agents? The hands of the people are not tied; the same right which gave them the power to make statutes by a Legislature, gives them the power of repealing those statutes by Treaty, whenever they find it useful so to repeal them.

These general remarks are not made to prove any particular distribution of the powers of this Government. They are made to evince that, from the nature of things in all Governments, the Treaty power must, on certain subjects, be paramount to the Legislative. It cannot be doubted, but that

the people have a right to deposite their power wherever they please; but wherever the power is placed, it must possess all that authority which is necessary to answer the objects for which it exists.

The next inquiry will be, where have the people of the United States, by their Constitution, placed these two powers? And where they are placed, there let them remain.

By recurring to the Constitution, this question is easily answered: The first article in the Constitution declares, that the Legislative power therein granted, shall be vested in a Congress. In other parts of the Constitution, the particular objects of the Legislative power are detailed: Congress shall have power to regulate commerce with foreign nations; to lay taxes; to declare war, &c. But it is to be remarked, that this power of regulating commerce, &c., is a Legislative power, and, of course, subject to all those checks and restrictions, which a Legislative power must experience in all Governments, and which arise from the nature of things. The same Constitution declares, in words equally explicit, that the PRESIDENT shall have power, with the consent of the Senate, two-thirds agreeing, to make Treaties; and to leave no doubt as to the effect of a Treaty then made, the Constitution likewise declares, that all Treaties, made under the authority of the United States, shall be the law of the land. He said that this part of the subject did not admit of much elucidation; it gave rise to one of those self-evident propositions, which can only be obscured by reasoning. It was sufficient to say, that the people had, by their Constitution, in express words, deposited the Treaty power with the PRESIDENT and Senate, and as the House did not sit to make a Constitution, but to execute one, it was of no consequence whether the deposite was judicious, or otherwise.

Viewing the question in these points of light, he could not see any difficulty in their solution. The power of making Treaties has been given to the PRESIDENT and Senate. The Treaty in question has been completed by those constituted authorities; the faith of the nation is pledged. It has become a law, and the House of Representatives have nothing to do with it, but provide for its execution.

It had been, however, said, that if this extensive power is given to the PRESIDENT and Senate, they may repeal half of the existing laws. Allowing this to be the case, what follows? This consequence only results, that the people have clothed the PRESIDENT and Senate with a very important power. But this power must be placed somewhere; no Treaty can be made without it; the people have thought proper to place it there, and the House must submit; and it could be no objection to a distribution of necessary powers, that it might be altered. All power might be abused. The PRESIDENT is intrusted with the execution of the laws; he may abuse that power. The Legislature have the power to lay unlimited taxes, and to create unnumbered offices; this power may be abused. The people knew this when they gave the power; but they likewise knew that the

measure was necessary, and that if no power was to be given, because power might be abused, all Government was at an end.

In opposition to these opinions, a gentleman from Pennsylvania [Mr. GALLATIN] had said, that a law could not repeal a Treaty, nor a Treaty repeal a law, and had assigned this reason for it: that no law could be repealed, but by consent of the parties to the law. The reason is perfectly just, and applies conclusively to the case of a Treaty. But how does the reason apply to a statute? Is the House of Representatives a party to a statute? He believed not. The laws were the laws of the people, and not the laws of the House of Representatives. And shall not the people who made the laws by one set of agents, repeal them, if they please, by another?

But it was said, that there is a power given the Legislature by the Constitution to check the Treaty power; he could not find that check in the Constitution. The power of making Treaties was complete, in the PRESIDENT and Senate; and a Treaty once made, is not only binding on the nation, but becomes a law; and although the Legislature may defeat the execution of a Treaty, as it may every other law, yet it can never release the nation from its obligation.

It had been likewise said, that the power of appropriating money, given to the Legislature, created a check on the Treaty power, wherever money was wanted to carry a Treaty into effect; he could not admit this doctrine. It had been already shown, that the discretion of the Legislature was in certain cases limited in the business of appropriation. The compensation to the PRESIDENT, and the salary to the Judges, had been mentioned; and it could not be said that the Legislature possessed a broad discretion in these cases. The Constitution declares, that these compensations shall be paid; and yet they cannot be paid without Legislative appropriation. It therefore becomes the duty of the Legislature to make the necessary appropriations for those objects; they are bound to do it. The obligation of the Legislature to appropriate money is equally strong in every case, where a debt becomes due, a contract is made, or a law is to be executed; whether that debt, contract, or law, arises from the Constitution itself, the law made in pursuance of it, or Treaties made under its authority. It was the duty of the Legislature to do in all those cases, what the same gentleman from Pennsylvania had said, on a former occasion, on the subject of the Federal City: They must execute the law, or repeal it; for they could not refuse an appropriation, because they may think the law a bad one.

The Legislature, with respect to appropriation, might be considered as Treasurers of the United States; they command the Treasury of the Union; no money could issue from its coffers without an appropriation. But this power was not given, to enable the Legislature to defeat the contracts of the people, made by their authorized agents; but to fulfill them. It was true that they must examine the claim, inquire whether the debt was due, the contract regularly made, or the law re-

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quired Legislative aid. When these facts were ascertained, it became their duty and their business to make the necessary appropriations, provided money could be obtained for the purpose. This was a trust committed to the Legislature by the people; and if they did not execute it, they violated the trust reposed in them.

But it had been asserted, that the British House of Commons exercise the right of examining Treaties. But does it follow from thence, that the House of Representatives of the United States have the same power? Has Great Britain a similar Constitution? It was not pretended that she had; her Constitution had been justly said to have been made up of usages. Of course, proving that the British Commons exercise this power, proves nothing more than that such is the custom in that Government. But if the Parliament of Great Britain was to pass a law, vesting this power exclusively in the King and House of Lords, would the Commons then claim the right of ratifying Treaties?

But still gentlemen ask, have not the House as much power as the British House of Commons? He would answer this question by saying, that the House had as much, and no more power, than the Constitution had given it. And if gentlemen required a further answer, he would say that the Legislature of the United States did not possess as extensive power as the Parliament of Britain. That body can change the Constitution, alter the religion of the country, and, in short, its power is really omnipotent; such unbounded powers are not claimed here. But whether the British House of Commons have the power or not, is a question of no consequence; the inquiry was not into the powers of British Parliaments or Houses of Commons, but into the powers of that House, and those powers were found only in the Constitution.

The same gentleman from Pennsylvania said, that, if the Treaty is a law, it must be carried into effect. He asked, why was not this Treaty a law? It is certainly a Treaty; it had been made; it had been made under the authority of the United States; having been ratified by the PRESIDENT, with the consent of two-thirds of the Senate. What other requisite was wanting to make it a law? The Constitution points out no other: it therefore must be a law, and as a law, must be carried into effect. The gentleman had said, that a law could not repeal a Treaty; and if the House could not repeal it, why discuss it? It would be doing what the people had not employed them to do.

In the course of the debate, the gentleman from Pennsylvania [Mr. GALLATIN] had compared the opinions of those who opposed the resolution, to the saying of an English Bishop, who had said, "that the people had nothing to do with the law, but to obey it;" and their conduct, to the servile obedience of a Parliament of Paris, under the old order of things. Such remarks deserved no answer; he only wished to impress the recollection of them on the minds of gentlemen, that they might remain a perpetual monument of that gentleman's candor.

If he had been right in the doctrines he had advanced, that the business of ratifying the Treaty did not belong to the House, and that the Treaty was in fact a law without Legislative sanction, then the resolve on the table was improper and inexpedient, and ought not to pass.

Mr. HAVENS observed, that it appeared rather unfortunate, that a great Constitutional question should be discussed on a proposition that expressed no opinion relative to that subject; but as the right of the House to request the PRESIDENT to lay papers before them that related to the subject of the Treaty, had been denied, on the Constitutional ground, it appeared necessary to debate the Constitutional question; which, when stated in as concise terms as possible, and yet so as to express it with clearness and precision, appeared to be this: Is there not such an apparent interference between the Treaty-making power, vested by the Constitution in the PRESIDENT and Senate, and the Legislative power vested in Congress, that it becomes necessary to adopt such a principle of construction as will give both these powers full operation and effect, and that therefore it ought to be concluded, that whenever any Treaty shall contain any stipulation that may be comprehended under the Legislative powers of Congress, it ought not to be considered as the supreme law of the land, until it shall have received the assent of the House of Representatives to carry it into effect? In discussing this question it would be necessary to make some preliminary observations on the nature of power generally, without reference to any particular Constitution, that a better judgment might be formed of the nature and extent of the respective distributions of power contemplated in the Constitution of the United States. Power, as it relates to Government, has been considered to be of three kinds: Legislative, Executive, and Judicial. It would, in the course of this discussion, be admitted, as he presumed, that it would be a good definition of the Legislative power to say, that it was a power to prescribe rules that shall be binding on the community; and that it would likewise be admitted that it was a precise definition of the Executive power to say, that it was confined merely to the execution of the laws; and that the judicial power was nothing more than the power of determining what the law is; but, notwithstanding these respective definitions were sufficient to give a precise idea of the nature of each of these respective species of power, yet it must be acknowledged as an undoubted principle, that they do so shade into each other, that it is impossible in many cases to draw any line of distinction between them. The Executive will, for instance, in many cases exercise a Legislative power in the form of discretion, or in acting in cases where in fact the law is silent; and in like manner the judicial is rather in its nature Executive, as having united with it a power to execute the laws, and at the same time exercises in a great measure Legislative powers under the form of adjudications; but of these three kinds of power, the Legislative must be the most extensive and indefinite, for being in its nature supreme,

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it cannot be limited in going into details. But if the boundaries between these respective powers are somewhat undefinable, when considered without reference to any particular form of Government, they are much more so when viewed as they are intended to be distributed in the several forms of Government or Constitutions now existing in the world. He knew of no Government or Constitution in which those three powers were perfectly separated, unless it had been effected in the present Constitution of France, but he doubted whether it had been effected there in the sense that he understood it; but if recourse were to be had to the Constitutions in the United States, we should not find one in which these powers were not in some measure blended among the several departments of the Government; this was the case, at least so far as his knowledge on that subject extended. He had not seen one in which it appeared to him that this was not the case. They were certainly blended in the Constitution of the United States: The first article of it determines what branches of the Government shall exercise the Legislative powers; and the second creates the Executive power; but, at the same time, the Chief Executive is vested by the first article with a right to examine bills and object to them before they are passed into laws; this power could not be pretended to be Executive in its nature; and by the second article he is vested with the power of making Treaties with the consent of two-thirds of the Senate; but this does not make this power in its nature Executive, because that when we take into consideration the nature of this power, we shall find that it is in fact Legislative; for it comes precisely within the definition of Legislative power, as being a rule or law, binding on two or more independent nations by their mutual consent; the idea of a contract is no further connected with it than as it is necessary that two or more independent nations should ask each other's consent that this law should be binding on each of them. When, therefore, this is said to be a power founded on conventions, compacts, or agreements, it does not follow that the power is not in its nature Legislative; such words and phrases as these cannot alter the nature of the power; and when considered without reference to any particular Constitution, it must be considered as unlimited in its extent; because any conceivable stipulation, whether of a Legislative, Executive, or Judicial nature, may be comprehended under the form of a Treaty or contract with a foreign nation, and therefore it must follow as a necessary consequence evidently deducible from the indefinite extent of this power, that there never can be any precise boundary line marked out between what has been usually called internal and external relations. If the power of making Treaties as vested by the Constitution in the PRESIDENT and Senate, is in any sense limited, it must be by other parts of the Constitution than that in which it is expressly delegated; for it is there expressed without any limitation; and the only question seems to be, by what other parts or clauses is it limited? The first clause in the Constitution declares that

all Legislative power therein granted shall be vested in Congress, which shall consist of a Senate and House of Representatives; there is no reason can be assigned why these words, *all Legislative power*, in this clause, should not be considered in as unlimited a sense with respect to all the objects of legislation specified in the Constitution, as the words to make Treaties, in another clause; there must, therefore, be a manifest inconsistency between these two powers, according to the doctrine of those who contend, that a Treaty ought to be considered as supreme law without the assent of the House of Representatives, because it would be the same thing as to say, that no Legislative power granted by the Constitution could be exercised without the assent of the House of Representatives, and yet the PRESIDENT and Senate might exercise whatever Legislative power they thought proper, without their assent, under the form of a Treaty. The universal principle of construction, that all parts of any written law ought to be so construed as to be consistent with itself, so far as the same may be practicable, ought therefore to be applied in this case; which can easily be done by supposing that it must be a principle necessarily resulting from the two clauses in the Constitution, that whenever any Treaty shall contain any stipulations that may be comprehended under the Legislative power granted to Congress, it ought not to be considered as law until it has received in some form or other the assent of the House of Representatives. He observed that it had been admitted by those who were opposed to what he conceived to be the Constitutional right of the House, that it was necessary that the House should have some agency in passing an appropriation law to carry it into effect; this, he conceived, could only be necessary on their ground, because that the Treaty was unprovisional in that respect; if it had contained a clause stipulating that the necessary appropriations should be made, it would, according to their principles, have been unnecessary to have laid it before the House: but at the same time that they admitted this, they insisted that the House had no discretion in the business, but that they were bound by the Constitution to carry it into effect, because that the Constitution had said, that Treaties made under the authority of the United States, should be the supreme law of the land, any thing in the Constitution or laws of any State to the contrary notwithstanding; and in confirmation of their doctrine, they had compared it to a case in which they suppose that the Legislature can, by the Constitution, exercise no discretion in determining whether it will make the appropriations—that is, in the case for the support of Government generally, or of some of its particular branches, as for instance the Judiciary. But he could even suppose a case in which it might be necessary to exercise some discretion about the appropriation of moneys in the strongest case that had been stated; as, for instance, it might be necessary in some time of extraordinary danger or difficulty, to apply the very moneys that would, in an ordinary way, be applied to the support of

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Government, to such a purpose as would prevent the impending danger; but even admitting that Congress could exercise no discretion about legislating in many cases that might be pointed out in the Constitution, it does not follow that they would have no discretionary power about legislating in this particular case. Congress must be supposed generally to have a discretionary power to determine whether they will continue any existing law in force, and consequently may exercise a discretion in appropriating any moneys, if any should be necessary, to carry it into effect; and, besides, the question would still remain to be determined, whether a Treaty containing Legislative regulations ought not to receive the sanction of the House before it became the supreme law of the land, in the sense in which that expression in the Constitution ought to be understood. He observed, that gentlemen had not been sufficiently explicit in determining in what sense Treaties ought to be considered as the supreme law of the land; some appeared to consider Treaty law of so transcendent a nature as almost to form a part of the Constitution itself; they appeared, however, at the same time, to admit, that if a Treaty was contrary to the Constitution, it would, in that respect, be null; they appeared, however, very generally to place it in a grade or sphere a little below the Constitution, but far above any Congressional law, so that no act of Congress could touch or affect it—notwithstanding that the Constitution has declared the Congressional law shall be the supreme law of the land as well as Treaty law.

It appeared of great importance to him in discussing the question, to determine whether there did not necessarily exist in the Government of the United States, power to break a Treaty as well as to make it; this was a power necessarily inherent in all independent Governments, and it was frequently necessary to exercise it, because that a Treaty being in its nature nothing more than a law, mutually binding on two or more independent Sovereignities by their mutual consent, it must follow as a consequence, that whenever either of the parties do not in the opinion of the other observe this law, then the parties entertaining this opinion will consider themselves as discharged from the obligation of observing it on their part; and it was frequently the case, that there was no other practicable method of compelling an observance of a Treaty on one part, but by a refusal to observe it on the other. It did not appear to him, that in such a case there was vested in the President and Senate alone any power to break a Treaty; the Constitution was wholly silent on that point; it must therefore be supposed to be vested in Congress as exercising supreme Legislative power; and, therefore, it must be concluded, that an act of Congress contravening any existing Treaty, would in effect repeal it; and this must be more evident when it is recollected, that acts of Congress are, by the Constitution, declared to be the supreme law of the land as well as Treaties.

Mr. H. said he had not paid very great atten-

tion to precedents in considering the question under consideration, because that he laid it down as an incontrovertible maxim, that neither of the branches of the Government could, rightfully or constitutionally, divest itself of any powers by precedent, or by a neglect to exercise those powers that were granted to it by the Constitution; the great danger that was generally to be apprehended from precedents was this; that they might make the Government different in practice from what it was in theory or on paper. He observed, that it was a very remarkable circumstance, that those who had been stigmatized by gentlemen as disorganizers of the Government, or as rebels against the constituted authorities, should be very strenuously contending for such a construction of the Constitution of the United States as would render all its parts harmonious, and give them full operation and effect; and that those who assumed to themselves the peculiar style of being defenders of the Constitution and supporters of the Government, should be contending for such a construction of the Constitution as must render it inconsistent, and which must have a tendency to transfer the powers of the House of Representatives over into the hands of the President and Senate, by giving them an indefinite right to make laws without the consent of the House, under the form of Treaties. In order to avoid this inconsistency it had been said, that so was the Constitution; the will of the people had been expressed in that way, and that therefore we ought to submit to it; but such an assertion did not remove the difficulty, or clear up the inconsistency on the side of those who brought it forward; because it would still remain to be determined what the people had said when they expressed their will in the Constitution, and whether they did not intend that a Treaty containing Legislative regulations should receive the assent of the House of Representatives before it was carried into effect. It had been attempted to represent these powers as operating co-ordinately; but co-ordinate supreme powers could not operate in any government so as to be consistent with themselves, and therefore this would not remove the difficulty or clear up the inconsistency that arose from their construction. It had likewise been said that we were not necessarily to presume that these powers would be abused; but, in examining the principles of a Constitution we ought not to reason from what will be done in the exercise of power, but from what may be done. It had likewise been asserted that the popular branches of a government were apt to assume powers; this did not appear to him to be generally the case; if recourse were had to history or to the experience of mankind, it would be found that popular assemblies had been more frequently disposed to render themselves subservient to the views and interests of those who were in power, and who did not form a part of the body, but might notwithstanding have a great influence over them as individuals, than to assume unnecessary powers to themselves. This had been the case for many years in England; the popular branch of the Government in that country, had been subservient to

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the views of the administration, and this was the principal cause of all the miseries that the nation now endured. It had not been the case in the Government of the United States, since it had been established; it rather appeared from the laws of Congress that they had been at all times sufficiently disposed to place large and indefinite powers in the hands of the Administration under the form of discretion. He said, that this was no new question; it had been agitated when the Constitution of the United States was under consideration; it was then said, that the power of making Treaties vested in the President and Senate, would be inconsistent with the Legislative powers of Congress, unless the House of Representatives were to give their assent to Treaties as well as to other laws, before they were carried into effect; but the people had rather chosen to adopt the Constitution, and to trust to time and experience to procure amendments, than to reject it on account of this or other objections; but he did not recollect that he had ever heard the difficulty cleared up in any other manner than by supposing, that the House of Representatives ought, in some mode or other, to give their assent to Treaties, as well as to other laws. He concluded with observing, that he thought he had clearly shown that, on one ground, there would be an inconsistency between the Legislative power vested in Congress, and the power of making Treaties vested in the President and Senate; and that, on the other ground, they would be perfectly reconcilable, and all parts of the Constitution would have full operation and effect; and he therefore thought it was his duty to adopt this principle of construction; he therefore supposed there could be no good objection to the proposition under the consideration of the House, on the ground of the Constitutional right of the House to determine whether they would or would not carry a Treaty into effect.

Mr. MADISON said, that the direct proposition before the House, had been so absorbed by the incidental question which had grown out of it, concerning the Constitutional authority of Congress in the case of Treaties, that he should confine his present observations to the latter.

On some points, there could be no difference of opinion; and these need not, consequently, any discussion. All are agreed that the sovereignty resides in the people. That the Constitution, as the expression of their will, is the guide and the rule to the Government; that the distribution of the powers made by the Constitution ought to be sacredly observed by the respective departments. That the House of Representatives ought to be equally careful to avoid encroachments on the authority given to the other departments, and to guard their own authority against encroachments from the other departments. These principles are as evident as they are vital and essential to our political system.

The true question, therefore, before the Committee, was, not whether the will of the people expressed in the Constitution was to be obeyed, but how that will was to be understood; in what manner it had actually divided the pow-

ers delegated to the Government; and what construction would best reconcile the several parts of the instrument with each other, and be most consistent with its general spirit and object.

On comparing the several passages in the Constitution, which had been already cited to the Committee, it appeared, that if taken literally, and without limit, they must necessarily clash with each other. Certain powers to regulate commerce, to declare war, to raise armies, to borrow money, &c., are first specially vested in Congress. The power of making Treaties, which may relate to the same subjects, is afterwards vested in the President and two-thirds of the Senate; and it is declared in another place, that the Constitution and the laws of the United States, made in pursuance thereof, and Treaties made, or to be made under the authority of the United States, shall be the supreme law of the land. And the Judges, in every State, shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding.

The term *supreme*, as applied to Treaties, evidently meant a supremacy over the State Constitution and laws, and not over the Constitution and Laws of the United States. And it was observable that the judicial authority, and the existing laws, alone of the States fell within the supremacy expressly enjoined. The injunction was not extended to the Legislative authority of the States, or to laws requisite to be passed by the States for giving effect to Treaties; and it might be a problem worthy of the consideration, though not needing the decision of the Committee, in what manner the requisite provisions were to be obtained from the States.

It was to be regretted, he observed, that on a question of such magnitude as the present, there should be any apparent inconsistency, or inexplicitness in the Constitution, that could leave room for different constructions. As the case, however, had happened, all that could be done was to examine the different constructions with accuracy and fairness, according to the rules established therefor, and to adhere to that which should be found most rational, consistent and satisfactory.

He stated the five following as all the constructions worthy of notice, that had either been contended for, or were likely to occur.

I. The Treaty power, and the Congressional power, might be regarded as moving in such separate orbits, and operating on such separate objects, as to be incapable of interfering with, or touching each other.

II. As concurrent powers relating to the same objects; and operating like the power of Congress, and the power of the State Legislatures, in relation to taxes on the same articles.

III. As each of them supreme over the other, as it may be the last exercised; like the different assemblies of the people, under the Roman Government, in the form of centuries, and in the form of tribes.

IV. The Treaty power may be viewed, according to the doctrine maintained by the opponents of the proposition before the Committee, as both

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unlimited in its objects, and completely paramount in its authority.

V. The Congressional power may be viewed as co-operative with the Treaty-power, on the Legislative subjects submitted to Congress by the Constitution, in the manner explained by the member from Pennsylvania [MR. GALLATIN] and exemplified in the British Government.

The objection to the first construction is, that it would narrow too much the Treaty power to exclude from Treaties altogether the enumerated subjects submitted to the power of Congress; some or other of this class of regulations being generally comprised in the important compacts which take place between nations.

The objection to the second is, that a concurrent exercise of the Treaty and Legislative powers, on the same objects, would be evidently impracticable. In the case of taxes laid both by Congress and by the State Legislatures on the same articles, the Constitution presumed, that the concurrent authorities might be exercised with such prudence and moderation as would avoid an interference between their respective regulations. But it was manifest that such an interference would be unavoidable between the Treaty power and the power of Congress. A Treaty of Commerce, for example, would rarely be made, that would not trench on existing legal regulations, as well as be a bar to future ones.

To the third, the objection was equally fatal. That it involved the absurdity of an *imperium in imperio*, of two powers both of them supreme, yet each of them liable to be superseded by the other. There was, indeed, an instance of this kind found in the Government of ancient Rome, where the two authorities of the *comitia curiata*, or meetings by centuries, and the *comitia tributa*, or meetings by tribes, were each possessed of the supreme legislative power, and could each annul the proceedings of the other. For, although the people composed the body of the meetings in both cases, yet, as they voted in one according to wealth, and in the other according to numbers, the organizations were so distinct as to create, in fact, two distinct authorities. But it was not necessary to dwell on this political phenomenon, which had been celebrated as a subject of curious speculation only, and not as a model for the institutions of any other country.

The fourth construction, is that which is contended for by the opponents of the proposition depending; and which gives to the Treaty-power all the latitude which is not necessarily prohibited by a regard to the general form and fundamental principles of the Constitution.

In order to smooth the way for this doctrine, it has been said that the power to make Treaties was laid down in the most indefinite terms; and that the power to make laws, was no limitation to it, because the two powers were essentially different in their nature. If there was ingenuity in this distinction, it was all the merit it could have; for it must be obvious that it could neither be reduced to practice, nor be reconciled to principles. Treaties and laws, whatever the nature of them

may be, must, in their operation, be often the same. Regulations by Treaty, if carried into effect, are laws. If Congress pass acts relating to provisions in a Treaty, so as to become incorporated with the Treaty, they are not the less laws on that account. A Legislative act is the same whether performed by this or that body, or whether it be grounded on the consideration, that a foreign nation agrees to pass a like act, or on any other consideration.

It must be objected to this construction, therefore, that it extends the power of the PRESIDENT and Senate too far, and cramps the powers of Congress too much.

He did not admit that the term "Treaty" had the extensive and unlimited meaning which some seemed to claim for it. It was to be considered as a technical term, and its meaning was to be sought for in the use of it, particularly in Governments which bore most analogy to our own. In absolute Governments, where the whole power of the nation is usurped by the Government, and all the departments of power are united in the same person, the Treaty power has no bounds; because the power of the sovereign to execute it has none. In limited Governments, the case is different; the Treaty power, if undefined, is not understood to be unlimited. In Great Britain, it is positively restrained on the subjects of money and dismembering the empire. Nor could the Executive there, if his recollection was right, make an alien subject by means of a Treaty.

But the question immediately under consideration, and which the context and spirit of the Constitution must decide, turned on the extent of the Treaty power in relation to the objects specifically and expressly submitted to the Legislative power of Congress.

It was an important, and appeared to him to be a decisive, view of the subject, that if the Treaty power alone could perform any one act for which the authority of Congress is required by the Constitution, it may perform every act for which the authority of that part of the Government is required. Congress have power to regulate trade, to declare war, to raise armies, to levy, to borrow and appropriate money, &c. If, by Treaty, therefore, as paramount to the Legislative power, the PRESIDENT and Senate can regulate trade, they can also declare war, they can raise armies to carry on war, and they can procure money to support armies. These powers, however different in their nature or importance, are on the same footing in the Constitution, and must share the same fate. A member from Connecticut [MR. GRISWOLD] had admitted that the power of war was exclusively vested in Congress; but he had not attempted, nor did it seem possible, to draw any line between that and the other enumerated powers. If any line could be drawn, it ought to be presented to the Committee; and he should, for one, be ready to give it the most impartial consideration. He had not, however, any expectation that such an attempt could succeed; and, therefore, should submit to the serious consideration of the Committee, that although the Consti-

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tution had carefully and jealously lodged the power of war, of armies, of the purse, &c., in Congress, of which the immediate Representatives of the people formed an integral part, yet, according to the construction maintained on the other side, the PRESIDENT and Senate, by means of a Treaty of Alliance with a nation at war, might make the United States parties in the war. They might stipulate subsidies, and even borrow money to pay them; they might furnish troops to be carried to Europe, Asia, or Africa; they might even attempt to keep up a Standing Army in time of peace, for the purpose of co-operating, on given contingencies, with an ally, for mutual safety, or other common objects. Under this aspect the Treaty power would be tremendous indeed.

The force of this reasoning is not obviated by saying, that the PRESIDENT and Senate would only pledge the public faith, and that the agency of Congress would be necessary to carry it into operation. For, what difference does this make, if the obligation imposed be, as is alleged, a Constitutional one; if Congress have no will but to obey, and if to disobey be treason and rebellion against the constituted authorities? Under a Constitutional obligation with such sanctions to it, Congress, in case the PRESIDENT and Senate should enter into an alliance for war, would be nothing more than the mere heralds for proclaiming it. In fact, it had been said, that they must obey the injunctions of a Treaty as implicitly as a subordinate officer, in the Executive line, was bound to obey the Chief Magistrate; or as the Judges are bound to decide according to the laws.

As a further objection to the doctrine contended for, he called the attention of the Committee to another very serious consequence from it. The specific powers, as vested in Congress by the Constitution, are qualified by sundry exceptions, deemed of great importance to the safe exercise of them. Those restrictions are contained in section 9 of the Constitution, and in the articles of amendment which have been added to it. Thus, "the migration or importation of such persons as any of the States shall think proper to admit, shall not be prohibited by Congress." He referred to several of the other restrictive paragraphs which followed, particularly the 5th, which says, that no tax shall be laid on exports, no preference given to ports of one State over those of another, &c. It was Congress, also, he observed, which was to make no law respecting an establishment of Religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press; or of the right of the people peaceably to assemble, &c. Now, if the Legislative powers, specifically vested in Congress, are to be no limitation or check to the Treaty power, it was evident that the exceptions to those powers, could be no limitation or check to the Treaty power.

Returning to the powers particularly lodged in Congress, he took notice of those relating to war and money, or the sword and the purse, as requiring a few additional observations, in order to show that the Treaty power could not be paramount over them.

It was well known that, with respect to the regulation of commerce, it had long remained under the jurisdiction of the States; and that in the establishment of the present Government the question was, whether, and how far, it should be transferred to the general jurisdiction. But with respect to the power of making war, it had, from the commencement of the Revolution, been judged and exercised as a branch of the general authority essential to the public safety. The only question, therefore, that could arise, was whether the power should be lodged in this or that department of the Federal Government. And we find it expressly vested in the Legislative, and not in the Executive department; with a view, no doubt, to guard it against the abuses, which might be apprehended, from placing the power of declaring war in those hands which would conduct it when declared; and which, therefore, in the ordinary course of things, would be most tempted to go into war. But, according to the doctrine now maintained, the United States, by means of an alliance with a foreign Power, might be driven into a state of war by the PRESIDENT and Senate, contrary both to the sense of the Legislature, and to the letter and spirit of the Constitution.

On the subject, also, of appropriating money, particularly to a military establishment, the provision of the Constitution demanded the most severe attention. To prevent the continuance of a military force for a longer term than might be indispensable, it is expressly declared, that no appropriation for the support of armies shall be made for more than two years. So that, at the end of every two years, the question, whether a military force ought to be continued or not, must be open for consideration; and can be decided in the negative, by either the House of Representatives or the Senate's refusing to concur in the requisite appropriations. This is a most important check and security against the danger of standing armies, and against the prosecution of a war beyond its rational objects; and the efficacy of the precaution is the greater, as, at the end of every two years, a re-election of the House of Representatives gives the people an opportunity of judging on the occasion for themselves. But, if, as is contended, the House of Representatives have no right to deliberate on appropriations pledged by the PRESIDENT and Senate, and cannot refuse them without a breach of the Constitution and of their oaths, the case is precisely the same, and the same effects would follow, as if the appropriation were not limited to two years, but made for the whole period contemplated, at once. Where would be the check of a biennial appropriation for a military establishment raised for four years, if, at the end of two years, the appropriation was to be continued by a Constitutional necessity for two years more? It is evident that no real difference can exist between an appropriation for four years at once, and two appropriations for two years each, the second of which, the two Houses would be constitutionally obliged to make.

It had been said that, in all cases, a law must either be repealed, or its execution provided for.

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Whatever respect might be due to this principle in general, he denied that it could be applicable to the case in question. By the provision of the Constitution, limiting appropriations to two years, it was clearly intended to enable either branch of the Legislature to discontinue a military force at the end of every two years. If the law establishing it must be necessarily repealed before an appropriation could be withheld, it would be in the power of either branch to keep up an establishment by refusing to concur in repeal. The construction and reasoning, therefore, opposed to the rights of the House, would evidently defeat an essential provision of the Constitution.

The Constitution of the United States is a Constitution of limitations and checks. The powers given up by the people for the purposes of Government, had been divided into two great classes. One of these formed the State Governments; the other, the Federal Government. The powers of the Government had been further divided into three great departments; and the Legislative department again subdivided into two independent branches. Around each of these portions of power were seen also exceptions and qualifications, as additional guards against the abuses to which power is liable. With a view to this policy of the Constitution, it could not be unreasonable, if the clauses under discussion were thought doubtful, to lean towards a construction that would limit and control the Treaty-making power, rather than towards one that would make it omnipotent.

He came next to the fifth construction, which left with the PRESIDENT and Senate the power of making Treaties, but required at the same time the Legislative sanction and co-operation, in those cases where the Constitution had given express and specific powers to the Legislature. It was to be presumed, that in all such cases the Legislature would exercise its authority with discretion, allowing due weight to the reasons which led to the Treaty, and to the circumstances of the existence of the Treaty. Still, however, this House, in its Legislative capacity, must exercise its reason; it must deliberate; for deliberation is implied in legislation. If it must carry all Treaties into effect, it would no longer exercise a Legislative power; it would be the mere instrument of the will of another department, and would have no will of its own. Where the Constitution contains a specific and peremptory injunction on Congress to do a particular act, Congress must, of course, do the act, because the Constitution, which is paramount over all the departments, has expressly taken away the Legislative discretion of Congress. The case is essentially different where the act of one department of Government interferes with a power expressly vested in another, and no where expressly taken away: here the latter power must be exercised according to its nature; and if it be a Legislative power, it must be exercised with that deliberation and discretion which is essential to the nature of Legislative power.

It was said, yesterday, that a Treaty was para-

mount to all other acts of Government, because all power resided in the people; and the PRESIDENT and Senate, in making a Treaty, being the Constitutional organs of the people for that purpose, a Treaty, when made, was the act of the people. The argument was as strong the other way. Congress are as much the organs of the people, in making laws, as the PRESIDENT and Senate can be in making Treaties; and laws, when made, are as much the acts of the people, as any acts whatever can be.

It had been objected, that the Treaty power would be in fact frustrated, if Treaties were to depend, in any degree, on the Legislature. He thought there was no such danger. The several powers vested in the several departments, form but one Government; and the will of the nation may be expressed through one Government, operating under certain checks on the subject of Treaties, as well as under other checks on other subjects. The objection would have weight, if the voluntary co-operation of the different States was to be obtained.

Another objection was, that no Treaty could be made at all, if the agency of Congress were to concur; because Congress could not treat, and their agency would not be of a Treaty nature. He would not stop to inquire how far a loan of money from a foreign Government, under a law of Congress, was or was not of the nature of a public contract or Treaty. It was more proper to observe, that the practice in Great Britain was an evidence that a Legislative agency did not vitiate a Treaty. Nay, if the objection were solid, it was evident that the Treaty lately entered into with that nation, could never be binding on this; because it had been laid before the Parliament for its Legislative agency, as necessary to effectuate the Treaty: and if that agency was to vitiate and destroy the nature of the Treaty on that side, the obligation, on the principle of all contracts, would be dissolved on both sides.

He did not see the utility in this case of urging as had been done, a particular distrust of the House of Representatives. He thought the PRESIDENT and Senate would be as likely to make a bad Treaty, as this branch of the Government would be to throw obstructions in the way of a good one, after it was made.

No construction might be perfectly free from difficulties; that which he had espoused was subject to the least, as it gave signification to every part of the Constitution; was most consistent with its general spirit, and was most likely, in practice, to promote the great object of it, the public good. The construction which made the Treaty power in a manner omnipotent, he thought utterly inadmissible in a Constitution marked throughout with limitations and checks.

He should not enter any further into the subject. It had been brought before the House rather earlier than he had expected, or than was perhaps necessary; and his observations, therefore, might not have been as full, or as well digested, as they ought to have been. Such as they were, he sub-

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mitted them to the candid attention of the Committee.

Mr. W. SMITH (of South Carolina) said, he would not at that time go into an extensive review of the arguments of the gentleman from Virginia, [Mr. MADISON,] but would only notice some points which he had dwelt on. Before he went into a consideration of the subject, he would call the attention of the Committee to the true question now before them; for though it was originally only a call for papers, it had now assumed a very important shape, and was nothing less than this, Whether that House had a concurrent power with the PRESIDENT and Senate in making Treaties? The gentleman last up had followed others in referring to the practice under the British Constitution; but had concluded his remarks on that argument with allowing, that, after all, our own Constitution must be our sole guide. He heartily joined in that sentiment, and was satisfied that the merits of the question should be tested by that alone. In order to show that the Treaty power was solely delegated to the PRESIDENT and Senate by the Constitution, Mr. S. said, he should not confine himself to a mere recital of the words, but he should appeal to the general sense of the whole nation at the time the Constitution was formed, before any Treaty was made under it, which could, by exciting passion and discontent, warp the mind from a just and natural construction of the Constitution. By referring to the contemporaneous expositions of that instrument, when the subject was viewed only in relation to the abstract power, and not to a particular Treaty, we should come at the truth. He would then confidently appeal to the opinions of those who, when the Constitution was promulgated, were alarmed at the Treaty power, because it was by the Constitution vested in the PRESIDENT and Senate, and to its advocates, who vindicated it by proving that the power was safely deposited with these branches of the Government. The discussions which took place at the time of its adoption by the Convention of the several States, proved, beyond a doubt, that the full extent of the power was then well understood, and thought by those who approved of the Constitution to be sufficiently guarded. He would further appeal to the amendments which had been proposed by the discontented. The Convention of Virginia had proposed an amendment, which of itself overturned all the reasonings of the gentleman. It was, "that no commercial Treaty should be valid, unless ratified by two-thirds of all the Senators." This was the only check which that State required, and was a conclusive evidence of their opinions: had that State conceived that the check which is now contended for existed in the Constitution, they could not have been guilty of such an absurdity as the amendment would involve. All the possible dangers which might ensue from the unlimited nature of the Treaty power were well considered before the Constitution was adopted, and Virginia required no further check than the one above recited. All

therefore, that they required had, in the present case, been done, for the Treaty was ratified by two-thirds of all the Senators.

Mr. S. said, he could refer to many further proofs derived from a similar source. He would not, however, fatigue the Committee at this time with reading them. He would only recal the recollection of some gentlemen present to the protest of the Pennsylvania minority, where the same ideas and amendments were contained, and to the proceedings of a meeting at Harrisburg, which the gentleman from Pennsylvania [Mr. GALLATIN] must well remember (having been one of the meeting) where, after stating objections to the extensive powers delegated by the Constitution, the following amendment was proposed, as necessary to limit and restrain the powers: "Provided always, that no Treaty which shall hereafter be made, shall be deemed or construed to alter or affect any law of the United States, or of any particular State, until such Treaty shall have been laid before and assented to by the House of Representatives in Congress." This amendment was the most satisfactory evidence that the proposers of it did then believe that, without that amendment, such Treaty would be valid and binding, although not assented to by this House, and that they had, at that day, no idea that there existed in the Constitution the check which is now discovered by this *ex post facto* construction.

Having stated the general opinion of the public, as manifested by the friends as well as the enemies of the Constitution, Mr. S. said he would proceed to show that the practice of Congress had, from the commencement of its existence, been conformable to that opinion. Several Treaties had been concluded with Indian tribes under the present Constitution. These Treaties embraced all the points which were now made a subject of contest—settlement of boundaries, grants of money, &c.; when ratified by the PRESIDENT and Senate, they had been proclaimed by the Executive as the law of the land; they had not even been communicated to the House; but the House, considering them as laws, had made the appropriations as matters of course, and as they did in respect to other laws. The Treaties were never discussed, but the requisite sums, as reported in the annual estimates, were included, as matters of course, in the general mass of moneys voted for the War Establishment in the item of Indian department. It was not pretended that the Constitution made any distinction between Treaties with foreign nations and Indian tribes; and the clause of the Constitution which gives to Congress the power of regulating commerce with foreign nations, and on which the modern doctrine is founded, includes as well Indian tribes as foreign nations.

That this House considered a Treaty, when ratified by the PRESIDENT and Senate, as the law of the land, was further evident from a resolve of the House, of the 4th of June, 1790, in these words:

"Resolved, That all Treaties made, or which shall be

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made and promulged under the authority of the United States, shall from time to time be published and annexed to their code of laws, by the Secretary of State."

In consequence of this resolution, the several Secretaries of State had annexed the Treaties which had been made, to the code of laws, as soon as they were ratified by the PRESIDENT and Senate, and promulged by the PRESIDENT.

Mr. S. then drew the attention of the Committee to the various applications to the PRESIDENT last Summer, requesting him to withhold his signature from the Treaty, all of which proceeded on the idea (and the generally received idea throughout the Union) that the Treaty would be the law of the land, as soon as sanctioned by the PRESIDENT. Was the language, then, that this House might interfere and defeat the Treaty? No, the language then was, "We look up to the PRESIDENT alone for preservation from the fatal instrument; if he signs it, nothing can save us from it but war—we are left without resource." The idea of applying to this House was never dreamt of; it was an after-thought, devised by the ingenious subtlety of the few, and considered almost universally as a desperate attempt. In the language of the New York meeting, the proceedings of which were drawn up by men supposed to understand the Constitution, the Treaty-making power is called altogether an Executive power; they did not then suppose that this House could at all interfere. To come still nearer to the present period, Mr. S. referred to the late act of Virginia, proposing an alteration to the Constitution on this subject. This amendment was a conclusive proof that the Legislature of that State did not conceive that this House possessed any power in relation to Treaties, for it expressly proposes to change the existing Constitution, by vesting such a power in this House. The fate of that amendment was demonstration no less conclusive, that the public sentiment was opposed to such a change; for in every Legislature in which that amendment had been discussed, notwithstanding the prejudices excited against the Treaty, it had been rejected; and the arguments which had appeared on those occasions, show the ideas of the several Legislatures to have been, that the PRESIDENT and Senate now possess exclusively the Treaty power; those in favor of the amendment having advocated it, on the ground that it was dangerous to leave such power with those two branches alone; and those against it having opposed it on the ground that the power was properly and safely lodged, and that this House was illy qualified to participate in a power of that nature.

Mr. S. repeated his former assertion, that there were cases where that House had not the right of withholding appropriations; if they had the power, indeed they might stop the proceedings of Government altogether; and so, individuals had the power of resisting the laws. Gentlemen had said, that if this doctrine prevailed, the House would lose its capacity of judging. He denied it; they would still retain, in such cases, a discretion, guided by morality, good faith, and the Constitution; the

members were as much bound by the laws in their Legislative, as in their individual capacity; if an existing law (or Treaty, which was a law of the highest nature) prescribed a certain duty, they were bound to perform it, and their discretion could only be called in to regulate the mode and circumstances of discharging that duty; it could not be a matter of discretion whether or not they should perform that duty. Thus, unless they intended to arrest the operations of Government, their discretion could not be requisite to determine whether they should appropriate the moneys necessary for its support; but out of what fund, and when the moneys shall be paid, and other matters of detail. So, when a Treaty was concluded, and became a compact binding the nation, the discretion of the House (unless it was intended to violate our faith) could not determine whether the moneys contracted for should be paid, but the mode, the fund, and such questions of detail, would alone be considered. The distinction, which was an obvious one, between power and right, had not been attended to. The House had certainly the power to do many things which they had not the right to do; they had the power to do wrong, but they certainly had not the right to do wrong; and whether the wrong was committed by acting where they ought not to act, or refusing to act where they ought, was immaterial; both were equally reprehensible. It had been boldly said, that there was no case which could possibly come before them, where they would not be at liberty to answer aye or no: he would produce a case—by the Constitution, on the application of a certain number of States, wishing for amendments, Congress must call a Convention; where is this boasted discretion, of which so much had been said? Could the House, in this case, exercise its discretion, whether or no a Convention should be called? Why not? Because the Constitution says it must call a Convention: and does not the Constitution say, "Treaties made by the PRESIDENT and Senate are laws, and that laws must be obeyed?" The same injunctions of the Constitution are imposed in both cases; and as in the first, all this House could do, would be to regulate the time and place of holding the Convention, so, in the latter, their discretion would be limited to the mode, and fund, and other details. The gentleman had mentioned the article in the Constitution respecting appropriations for military services—they were to be limited to two years; this article proved itself that appropriations might be unlimited in every other case. When a Military Establishment was instituted, it was known that an appropriation law for that purpose could not be in force more than two years; no inconveniences, then, could result. But there was no such limitation in respect to any other branch of expenditure; from custom, appropriations for the support of Government were annual; appropriations even for pensions were annual, and yet no one doubted that, as the pension was a contract, the appropriation for it was always a thing of course; no discretion could be exercised, in respect to the payment, without a breach of faith.

The gentleman from Virginia had said, that this House might repeal a law by withholding the necessary appropriation. But this was a new doctrine; he had always understood it to be a fundamental principle in legislation, that it requires the same power to repeal a law, as to make one; to say that one branch could, by refusing to act, repeal a law which had received the sanction of the three, was a solecism in Government; as well might it be said, that the refusal of an officer to execute, or of a citizen to obey, a law, would be a repeal of such law. Much had been said of the power of this House, in originating money bills; this House alone, it was true, could, by the Constitution, originate bills for raising revenue, but the Senate could originate bills for appropriating money; the necessary appropriations for carrying the Treaty into effect may originate in the Senate as well as in this House; the Senate may alter or reject any appropriation bill which does not contain such appropriations as they may deem necessary for the public service. From the observations of some gentlemen, it would be supposed that this House had a general censorship over all the other parts of the Government, and an exclusive control over all their proceedings; but this control was reciprocal; this House was only a part of the Legislative power, and possessed none of the Executive. In Great Britain, the House of Lords could not alter in the least any bill, even for appropriating moneys; he could not see with what view the practice of that country had been resorted to, for there was not the smallest analogy between the two countries in this respect. A gentleman had said, that we might repeal a Treaty by law; but other gentlemen on that side of the question had been of a contrary opinion; the fact was, that a Treaty could only be annulled by the consent of the contracting parties, by a breach of faith, or by war. It had been admitted, that the PRESIDENT was justifiable in issuing his proclamation respecting the Treaty, because a part of the Treaty was binding; but what that part was, gentlemen had not been pleased to designate; the citizens were, therefore, left to disobey it at their peril; the PRESIDENT had made no such distinction; he had proclaimed the whole instrument as a binding compact; the public are now, however, told, that a part of it remained to be sanctioned by Congress. This novel doctrine was, that certain parts had no binding force till acts of Congress were passed, giving them efficacy; but even here gentlemen were not agreed among themselves what those parts were. Their idea of making parts of the Treaty over again by act of Congress was a very extraordinary one indeed; it involved a curious inconsistency, he had almost said, an absurdity. By the Constitution the PRESIDENT negotiates a Treaty, and lays it before the Senate, two-thirds of which approve. By the Constitution, a law is made by a majority of both Houses, and the approbation of the PRESIDENT, but two-thirds of both Houses may make a law, without the PRESIDENT. Thus, according to this new doctrine, a law, giving a binding force to a compact with a foreign Power, might be made

without the intervention of the PRESIDENT, and yet, by the Constitution, the Treaty-making power is classed with the Executive powers, and is expressly delegated to the PRESIDENT and Senate. Again, two-thirds of the Senate must sanction a Treaty, but a majority may pass a law; hence, it would follow, that, after it had been necessary that two-thirds should, in the first instance, ratify a Treaty, a majority would be sufficient in the second instance to give validity to the instrument. Further, the PRESIDENT concludes the Treaty, submits it to the Senate, who approves, and then it is laid before the House for information; but, according to the new doctrine, the act giving validity to the Treaty must pursue an inverted course; it must be commenced in the House, go to the Senate, and from thence to the PRESIDENT. By adhering to the Constitutional distinction, all these inconveniences are avoided; the PRESIDENT and Senate made the compact; Congress are to execute it.

Mr. S. said, he would conclude his observations on this important subject, by recalling the recollection of the House to a law, which fully confirmed the doctrine he had contended for.

It must be remembered, that, in March, 1794, a law passed, laying a general embargo on all vessels. After the law had taken effect, and all vessels had been detained in pursuance of it, our Treaty with Sweden was construed by the Executive to exempt the vessels of that nation from the embargo; orders were accordingly issued to the Collectors to suffer them to depart; and they did depart, notwithstanding the act of Congress, which laid a general embargo, and under which those vessels had been detained. In that case, no law was deemed requisite to repeal the existing act, in respect to Swedish ships; the Executive alone construed the Treaty, and finding that, by Treaty, such vessels were not liable to embargo, ordered their release, although the act of Congress expressly included all foreign vessels; this circumstance was known at the time to Congress, and the conduct of the PRESIDENT considered as consistent with his duty. He saw no material distinction between this case and the question now in discussion; here was an act of the Executive, without the intervention of Congress, in relation to a commercial regulation, in which a Treaty was deemed paramount to an existing law; the only difference between the cases was, that the Treaty with Sweden was made under the Old Confederation: but that could not weaken the principle, for it would not be denied, that the present Constitution meant to give the PRESIDENT and Senate at least as much power in relation to Treaties, as had been possessed by Congress under the Old Government.

MARCH 11.—In Committee of the Whole, on Mr. LIVINGSTON'S resolution.

Mr. GILES said, he expected, when the present motion was made, that it would not be opposed. The expected agency of the House respecting the Treaty, or some subjects relating to it, made him imagine that the propriety of having the papers called for could not be denied. The Treaty has

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been referred to a Committee of the Whole, surely in order to act on it in some shape or other. Indeed, the PRESIDENT, in his Speech at the opening of the session, expressly says, that he will lay the subject before them. This he considered as full evidence, that the PRESIDENT conceived it must come under the notice of the House. If the papers could serve to explain any point relative to that instrument, surely the possession of them was desirable. He declared that he felt unfavorably towards the Treaty from the face of it; and that he believed the House had a right, and, if it was a right, it must also be their duty to oppose its execution by all the Constitutional means in their power as legislators, if they found it, upon mature deliberation, contrary to the interest of the people and the honor of the nation. He was sensible of the great responsibility which rested upon the House, and himself as a member of it, at the present important crisis. Under the weight of that responsibility, he felt it necessary to shape his conduct under the fullest information that could be obtained. But while he acknowledged the importance of the final issue of the present question, he should not be induced by the weight of responsibility to swerve from his opinion; but he wished to form that opinion on the best information, and on the most mature consideration. This was the general motive that weighed on his mind in favor of the proposed call.

The right of the House to the papers called for had not been denied by most of the gentlemen who opposed the present motion. They admit that the proposition, on the face of it, is not unconstitutional, if the House were about to exercise the powers in a Judicial capacity, to deliberate respecting an impeachment. The powers of the House, he insisted, did not vary with the different shapes they might constitutionally assume, whether they were exercising their functions as a Legislature or in a Judicial capacity. If the right to call for the papers was conceded to the House in one capacity, how could it be denied to them in another?

The right of the House to consider the expediency of Treaties, so far as the provisions of them clash with their specific powers, had been indirectly brought in in considering the present motion. He regretted that this important Constitutional question should be about to be decided indirectly; but, this being the situation of the debate, he should state his reasons why he conceived the argument on this ground ought not to be considered as of sufficient strength to cause a negative of the motion before the Committee.

The question is, whether there be any provisions in the Constitution by which this House can in any case check the Treaty-making power; and of consequence, whether it can question the merits of Treaties under any circumstances?

Various considerations had been advanced to show that the House cannot question the merits of a Treaty. Some of these considerations had grown out of the subject extrinsically, others from the provisions of the Constitution. Though at first he had intended to have stated simply his

own opinion of the Constitution on the important question now in view, yet, as gentlemen had gone fully into the question in that shape, and others had stated a variety of objections to the construction the friends of the motion contended for, he should proceed to answer them, and suffer his opinion of the meaning of the Constitution to be incidental.

The gentleman from South Carolina had referred to the opinions of the Conventions of the States at the time of adopting the Constitution. As to Virginia, the gentleman had stated that that State had considered the checks as provided by the Constitution as inadequate, and proposed an amendment, purporting to require two-thirds of the whole number of Senators, instead of two-thirds of the number present. This was true, he believed; but how would it apply in the sense the gentleman wished? The objection of that State was, that the check in the Senate, provided in the Treaty-making power, was not sufficient, and they proposed a greater: from which he would argue that they conceived the Treaty-making power to be a subject of extreme delicacy, and that they wished additional checks consequently added. How this was to prove that the Convention of Virginia did not construe the present clauses of the Constitution under debate as the friends of the present motion did, he was at a loss to determine. The gentleman who cited this instance had not quoted any part of the proceedings on the subject, or of the reasons that led to the amendment. He had merely mentioned the result to the House. That gentleman had next professed to take a view of the opinions of the citizens of the United States antecedent to the present discussion, and posterior to the adoption of the Constitution. He had mentioned one case, viz: the meeting of the people of New York, who assembled to petition the PRESIDENT not to give his sanction to the pending Treaty, and exhorting him to refuse it, as, if it obtained his sanction, it could not be got rid of except by a war. Mr. G. remarked, he did not expect to hear that member quote the proceedings of town-meetings as a rule for the conduct of the House. Such assemblages of the people had often been the theme of merriment, and always objects of contempt with that gentleman, so that he did not conceive how their proceedings could have any weight on the opinions of the members.

Mr. SMITH, of South Carolina, observed, that on the present question he had said nothing against the propriety of town-meetings.

Mr. GILES allowed that on the present occasion the gentleman had not repeated his sentiments respecting those meetings. For his own part, he was always ready to acknowledge that the result of those assemblies of the people for the expression of their opinions, had a weight on his mind; but he might be permitted to ask that gentleman why, since he placed no faith on that source of information, he brought any thing said at such meetings into the view of the House? If the gentleman admitted the sense of those meetings as the orthodox explanation of the doubtful parts of the Constitution,

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and as the expression of the public will, he would not, he hoped, consider it as out of order when any question should arise, to hear the proceedings of those meetings cited as an exposition of the public will.

But, in the present instance, he conceived the member unfortunate in his quotation. The meeting wished to persuade the PRESIDENT not to sign, and they used the strongest expressions they could think of to convince him of the impropriety of putting his hand to the fatal instrument. The meeting was not assembled for the purpose of expounding the Constitution: they met to give weight to an application made to the proper authority to beg that the Treaty might be crushed in that state of the business. But to take the gentleman's own rule of construction, it will be found that when their petitions to the PRESIDENT were of no effect, they then addressed this House as their dernier resort. If these popular proceedings were to be considered as an expression of public opinion, he would say that the petitions on the table of the House were more numerous than he had ever known them on any question whatever. From these petitions it will be found that the people had recognized the power of the House to interfere, and begged them not to abandon their rights.

The next subject the member from South Carolina touched upon was, the late amendments proposed to the Constitution by the State of Virginia. He deduced, from one of these amendments, that the Legislature of that State did not conceive the power of the House to extend to matters of Treaty. This he did not believe a fair deduction. It is not contended that there are words in the Constitution expressly giving this participation in controlling Treaties to the House, it is only contended for as growing out of the specific powers vested in Congress. The object of the State of Virginia was then to exchange a construction that might be disputed for an expression not to be doubted. It was unnecessary for the gentleman from South Carolina to remind the State of Virginia of the fate of their propositions in the Legislatures of the several States. Virginia, he hoped, would pursue uniformly the line of conduct that had marked her political character, under whatever circumstances she might happen to be placed. Her conduct had been uniform from the Declaration of Independence to the present day; uniform and exemplary in their obedience to the laws, and in their activity against encroachments; and, notwithstanding the fate of her proposed amendments, he prided himself in representing a State that never offered the slightest mark of disrespect to a sister State for differing with her in opinion. If Virginia had been the cause of some indelicacies on the part of other States, she is the innocent cause. They had exercised a Constitutional right which they conceived it their duty to exercise, and they could not be responsible for any indelicacies to which that conduct might have given rise.

The practice of the House had been referred to yesterday by the member last up, [Mr. SMITH, of

South Carolina.] He had remarked that the House had passed a general resolution directing the Clerk to place in the code of laws of the United States Treaties made under the authority of the United States. Was this, he asked, an exposition of the meaning of the Constitution? He believed the resolution a very proper one, and would vote now for its adoption if it was yet to be passed. It is certainly proper, when a Treaty is concluded under the authority of the United States, that it should be annexed to their code of laws; but this could not weigh against the exercise of discretion in the House on important Legislative subjects.

The practice of the House, with respect to appropriation laws, in the cases of Indian Treaties, had been mentioned by the member from South Carolina. In the first place, in observing upon this, he would remark, that he always conceived there was a distinction between an Indian Treaty and a Treaty with a foreign nation. The English had always made a distinction when we were Colonies. The Constitution establishes an express difference. He should not, however, found his objections to the inference of the gentleman upon this, but would examine it unconnected with this distinction. Provisions had been made by this House to carry Indian Treaties into effect; but why? No doubt because the House conceived it wise so to do, not because they had not a right to use their discretion in the business. Suppose, on any of those occasions, a motion had been made to strike out the sum proposed to be appropriated, would it have been said that the motion was out of order? A similar motion was made lately with respect to the Mint, and it was not considered as out of order. If, on that occasion, it had been the opinion of the House that the Mint was an improper establishment, by refusing the appropriation they could have defeated the law. It was certainly the opinion of the House that they could exercise their discretion in the business, for it was not even hinted that the motion for striking out was out of order.

On another head the gentleman appeared to plume himself much. He had asked, why, since the PRESIDENT had proclaimed a Treaty as the law of the land, which was not the law of the land, why he was not impeached? This question, the member exultingly remarked, had not been answered, because, he imagined, it could not be answered.

Suppose I should tell the gentleman, said Mr. G., that I could not now give him an answer, would it show that the House had not the authority contended for by the friends of the present motion? Why was the subject mentioned? Not with a view, I believe, to the discovery of the truth. I fear it is calculated to produce an opposite effect—to check investigation. It is too often the case that the names of persons are brought into view, not to promote the development of principles, but as having a tendency to destroy freedom of inquiry. I will go further with the gentleman, and admit for a moment (a position, however, I shall by and by controvert) that the PRESIDENT conceived that he had a right, after

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the exchange of ratifications, to promulgate the Treaty as the supreme law of the land; what would this amount to? Why, only that this was his opinion; but is that authority here? In any other case rather than the present, I should be inclined to pay a greater respect to opinions from that source; but now, when the question is about the division of powers between two departments, are we to be told of the opinions of one of those departments, to show that the other has no right to the exercise of power in the case. Such appeals are not calculated to convince, but to alarm.

He acknowledged that the *PRESIDENT's* Proclamation differed from what he expected it would have been; because the *PRESIDENT* had expressly said in his Speech at the opening of the session, that he would lay the subject of the Treaty before the House; and not, he supposed, for their opinions only, but for their agency. He believed, however, the Proclamation was issued in its present form with the best intentions; but the authority for the opinions on which it was founded would not, he said, prevent him from exercising his own. Opinion, said Mr. G., is sometimes repulsive. When it is pressed too closely, resistance and reaction, not favorable to the investigation of truth, are the consequence. The whole argument of the gentleman on this ground, then, proves nothing, and is attended with this ill effect—to check the discovery of truth. But he hoped the House would seek within themselves for opinions, and not travel for them to other departments of the Government. He had said, however, that it was his belief that it was not probable the *PRESIDENT* viewed the Treaty as the supreme law of the land before it had been submitted for Legislative decision; and this belief was grounded on the intentions which the *PRESIDENT* expressed in his Speech of laying the *subject* before the House.

Having examined the objections to the construction contended for by the friends of the motion, drawn from collateral sources, he should turn his attention next, he said, to the intrinsic meaning of the Constitution. He would attempt to interpret the Constitution from the words of it. It was a misfortune the clauses were not more clear and explicit, so far as to force the same meaning upon every mind, however they might differ in opinion in other respects. However, from the imperfection of language, it was no wonder, he observed, that on an instrument providing for so many different objects, and providing such a variety of checks, various opinions as to construction should arise; but he considered the present clauses of as plain import as any part of the instrument. The construction contended for by the opposers of the motion is, beyond denial, the most dangerous in its effects, and the least probable, as he thought, in its meaning. It is contended by them that the Treaty-making power is undefined in its nature, unlimited as to its objects, and supreme in its operation; that the Treaty-making power embraces all the Legislative powers; operates by controlling all other authorities, and that it is unchecked. When he had asserted this power, as contended by the gentlemen to be un-

limited in its objects, he meant, however, that they had confined it only within the limits of the Constitution; but even admitting it in that extent, is certainly a doctrine sufficiently alarming. When the gentlemen contend for its supremacy, they also admit in this point some qualifications; according to their doctrine, it is not to be supreme over the head of the Constitution, but in every other respect they contend that it shall be unlimited, supreme, undefined. Gentlemen who insist that Treaties are supreme, next to the Constitution, must also grant that there is no necessity for the House to trouble themselves with making laws.

It will be remarked, said Mr. G., by examining the history of man, that the people have always been desirous to check the exercise of power in the administrators, and as uniformly have administrators endeavored to evade those checks. The same among us. The American people, sensible of this, when they, after a fortunate struggle for their liberties, were about to exercise their discretion in the establishment of a Constitution that should secure their rights and liberties, formed a Government of checks. The Americans have the reputation of a sagacious people, and have showed their sagacity in framing this Constitution; but even if they had proved themselves more sagacious in devising checks, a correspondent sagacity would still have been found in the Government to evade them. Never, I will venture to say, was there an instance of a more complete rout of so complete a system of checks, within the term of six years, in any Government on earth; and if the doctrine now contended for be agreed to, then I do declare that the triumph of evasion of checks is complete indeed, and little will be left hereafter to be evaded.

The construction contended for by the friends of the resolution is derived from two sources—from the Constitution, and the nature of things. The Constitution says, the *PRESIDENT*, with the advice and consent of two-thirds of the Senators present, shall make Treaties. Perhaps, if there was no other clause, the Treaty-making power might be considered as unlimited. Another clause declares that the Constitution, the laws made under it, and Treaties, shall be the supreme law of the land. Here the gentlemen, when they quote this clause, stop, as if there were no other words in it; and from all this it would appear that the people had, in fact, delegated an unchecked power. But, if we go on, it will be found that the last-mentioned clause adds that the Judges in the respective States shall cause them to be executed, any thing in the Constitution or laws of the individual States to the contrary notwithstanding. From the jealousy which individual States showed under the old Confederation for the preservation of their powers, and the inconveniences which were experienced in consequence, it was found necessary, when organizing a new Government, to declare, explicitly, that their Constitutions and laws must yield to the *Constitution, laws, and Treaties* of the United States, and for this purpose this clause was introduced.

Gentlemen, after granting that the Constitution

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is supreme when in opposition to Treaties, contend that Treaties are supreme over laws. They also admit that this is not warranted by the Constitution, but they contend that it is so from the nature of things. From the nature of things, he said, he should infer the reverse, though he disagreed in this from the gentleman from Pennsylvania, [Mr. GALLATIN.] He contended that the Constitution and the acts of the Legislature annul Treaties, and that Treaties do not annul laws. This he should infer from the nature of Treaties and the nature of laws. Gentlemen said that Treaties could not be repealed, because they were made by two contracting parties. This sounds very well, but was ever such a thing heard of as a Convention to repeal a Treaty? If this had never been done by Convention, it is at least presumable that the admission to have done so heretofore renders this theory doubtful. The truth is, that the right of annulling Treaties is essential to national sovereignty; and nations have at all times taken their own measures respecting Treaties, under the common responsibility for the breach; but if such is the practice, as is contended for, it would be advisable in the present case. Perhaps, said Mr. G., if his gracious Majesty is once more saluted with an expression of our reliance on his magnanimity, and well known justice, &c., he may relieve us from the burden. If the epithets are reverberated on him, they might rid us of that dilemma which they had such an agency in producing.

Mr. G. contended, that this mode of repealing Treaties by Conventions was merely theory, and that no instance of the exercise of such a power could be met with in the history of nations, neither is the doctrine consonant to reason. The reason why a law should repeal a Treaty, is because the law is an expression of the will of the nation, through their Constitutional organ. He did not mean to say, that a Treaty is not binding as long as it is a law. But, if it is admitted that the House, in concurrence with the other branches, have the power of declaring war, then he would not say, that the Legislature were to repeal Treaties article by article, but certainly they may annul them. He would go farther, and suppose, by the instrument submitted to the House, an equalization of duties on foreign and domestic bottoms be provided for, to the injury of our carrying trade; suppose a law should then pass annulling the Treaty; gentlemen say this would lead to war; perhaps it might have the effect, but that is not now the question; the question of right is now in debate; suppose a law should pass repealing, by the concurrence of the proper authorities, the particular article, the existence of which he had supposed, the Treaty would be rendered *pro tanto* void. Suppose, he said, in the case of the present Treaty, that the Parliament of Great Britain refuse to carry it into complete effect, were we to enforce on Great Britain a compliance of its stipulations? Great Britain had at all events the right so to act, taking the consequences of her conduct upon herself. But gentlemen contend that a Treaty is irrevocable; and because a foreign Power is a party

in the contract, not because it is the interest of the United States that it should be so.

Mr. G. then contended that, in proportion as an authority is undefined, in that proportion every check should be exercised. It is the height of folly to contend that the American people ever intended to give any authority an unlimited operation. If the Constitution be examined, it will be found grounded on a jealousy against all rulers; this is evident from the face of the instrument.

In the first place, it contains limitations to the aggregate powers of the Government. In the next place, it provides checks for the powers given up. These checks are at least of three kinds; the first is, that of a distribution of different species of authorities into distinct hands, as in the case of the Legislative, Executive, and Judiciary; secondly, it requires a concurrence of different branches of the Government for the exercise of the same species of authority, as in the case of all Legislative subjects, the concurrence of the Senate and this House, to which is subjoined the qualified veto of the President; the third species consists of prohibitions upon the whole of the departments in the exercise of particular authorities intrusted to them, as in the case of a prohibition of an appropriation for the support of an Army for more than two years; the prohibition respecting exports under the power to regulate commerce, &c. So jealous has the Constitution been with respect to armies, that it also requires biennial elections for the purpose of enabling every new House to prevent the execution of a law for raising an Army by withholding the appropriations for its support. Whilst the Constitution was formed under this spirit of jealousy, it would have been wonderful that that power which is described to be unlimited in its objects, undefined in its nature, and paramount in its operation, should have been left unchecked; it would have been an evidence of the most egregious folly. The American people were incapable of it; accordingly checks are found in the Constitution, if it be fairly interpreted; and it is not very material whether these checks are in express words, or whether they result virtually from the distribution of the several powers. It is sufficient that they are efficacious.

The checks on the Treaty-making power he considered as divisible into two classes; the first, consists in the necessary concurrence of the House to give efficacy to Treaties; which concurrent power they derive from the enumeration of the Legislative powers of the House. Where the Treaty-making power is exercised, it must be under the reservation that its provisions, so far as they interfere with the specified powers delegated to Congress, must be so far submitted to the discretion of that Department of the Government. The President and Senate, by the Constitution, have the power of making Treaties, Congress the power of regulating commerce, raising armies, &c.; and these, he contended, must form so many exceptions to the general power. Gentlemen had said that the Constitution was the exposition of the will of the people, and as such, that they would

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obey its injunctions. There could be no difference of opinion on this ground; for his own part, he confessed, if he adored anything on earth, it is that will. But the question is, what is that will, as expressed in the Constitution? That instrument, to his mind, explained this question very clearly. It enumerates certain powers which it declares specifically vested in Congress; and where is the danger to be apprehended from the doctrine laid down by the friends of the resolution? the contrary construction must produce the most pernicious consequences; agreeably to that, there would remain no check over the most unlimited power in the Government. The gentlemen contend, that the House must remain silent spectators in the business of a Treaty, and that they have no right to the exercise of an opinion in the matter; they must then abandon their Constitutional right of legislation; they must abandon the Constitution and cling to Treaties as supreme.

The other check over the Treaty-making power, he noticed, was the power of making appropriations, the exercise of which is specifically vested in Congress. He begged leave to call the particular attention of the Committee to this part of the subject. The Constitution says, that no money shall be drawn from the Treasury, but in consequence of appropriations made by law. This is no doubt intended as a check in addition to those possessed by the House. It is meant to enable the House without the concurrence of the other branches, to check, by refusing money, any mischief in the operations carrying on in any department of the Government. But what is a law? It is a rule prescribed by competent authority. The word law in the clause of the Constitution he had last noticed, was not meant in reference to the Treaty-making power; but in reference to Congress. A law prescribes a rule of conduct; it is the expression of the will of the proper authority; it is the result of discretion. Legislation implies deliberation. If a law is the expression of the will, must not an appropriation law be equally so? But gentlemen had found out a new-fashioned exposition of the word discretion, and, according to their definition in fact, it was no discretion at all. They had mentioned a part of the Constitution which provides that the salaries of the Judicial department shall be fixed; and asked, whether the House should conceive itself at liberty to use a discretion in appropriations for that department? Before he could consider this case and that before the House now, parallel, he must beg gentlemen would point out any part of the Constitution that declared the House should not exercise their discretion when called upon to make appropriations to carry into effect a Treaty. He could find nowhere, that, in this case, the right of opinion of the House is constrained.

A member from South Carolina had given to discretion a negative meaning; and chose to conceive that the discretion contended for by the friends of the motion, was a discretion of whim and caprice; this was not the case. He had then attempted to combat the doctrine of discretion by a trite remark, indeed, that it never could be right

to do wrong. He would answer him in a manner as trite, and say, that it never could be wrong to do right. But this proved nothing; still it is necessary to inquire and judge what was right and what wrong, and to do this, discretion must be exercised. So, in the present case, if it is right to carry the Treaty into effect, it would be wrong not to do it; and so, if it would be wrong to sanction it, it could not be right to agree to it. But this is to be determined by the exercise of a sound discretion. He owned he felt attached to the old-fashioned discretion, which consists in the faculty of choosing or refusing; he could not admit of the docile complying discretion, that gentleman contends for; he would call it a predestinated discretion. The effect of this new-fangled discretion would be, not to vote according to the conviction of one's own mind, but by that of another. A clause of the Constitution had been cited to support the definition of discretion advanced by the gentleman; that part which directs that Congress shall call a convention when a certain number of States require it. This surely could not apply to the doctrine advanced; there was, in that case, no room for the exercise of discretion; discretion is out of the question, and there is a positive obligation, under the binding force of an oath, to do a thing when required in a certain manner; in this matter, Congress are only to execute the injunction of the Constitution. Gentlemen had attempted to set up a new doctrine as to the operation of the moral sense; their moral sense was to be exercised by the PRESIDENT and Senate, and they were willing to abide by its operation in the breasts of those branches of the Government. He had always understood, for his own part, that an agent who had the right to be directed by his moral sense, must be a free agent.

There could be, he contended, no Legislative act without deliberation; the opinions which were to guide their decisions, must be matured by deliberation; they were not to decide upon predestinated impressions; but their conduct must rest on the operations of their own minds.

A gentleman from Connecticut had discarded all pretence to the exercise of discretion; he might have an opinion as a citizen, but would not have one on the present question as a legislator. This was a nice distinction, indeed; he could not, for his own part, abstract in this way the citizen from the legislator. He declared, he would not form an opinion; Mr. G. conceived it the duty of a legislator to exercise an opinion, and not shut his eyes against convictions, and not to receive them from extrinsic quarters. When the Constitution says, the Legislature shall enact laws, it implies that they must be the fruits of deliberation, and not in the nature of an Executive act.

The uniform practice of the British Government had been cited to have been, in the case of Treaties, the same as that contended for by the friends of the present motion. The greatest security for the liberties of the people established in that Government, depends on the control which their Parliament has over the purse-strings. In England, this power rests merely on custom; here, the

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House are expressly intrusted with it; what is custom in England, is reduced to writing in our Constitution. Then, if this power is in England a ground for Parliament to judge of Treaties, it is a fair inference that it ought to be exercised here. The practice of the British Government, he observed, had often been quoted here in support of doctrines very different from those in aid of which it is now cited; it has been deemed orthodox when it favored Executive prerogative. He confessed, he never did expect that, as early as 1796, a reference would be made to practices, under the British Government, in support of the rights of the popular branch of our Government. It was painful to be obliged to have resort to that Government on such an occasion; but the authority of that Government should not be rejected for once, because its practice could be quoted in favor of the popular branch. The ground of the practice in England, and of the right claimed here, rests upon the sound maxim, that all public money is from the pockets of the people, and that it should be expended by none but their Representatives. No maxim had been more instrumental than this, in preserving the remnants of British freedom; and thus early is the House called upon to abandon it here.

Since checks were so wholesome and efficacious, and the want of them so dangerous to the rights of the people, there could arise no evil consequence, and but little inconvenience, from a multiplicity. What would the doctrine lead to, which goes to the suppression of the check now contended for? That the PRESIDENT and Senate may, if they please, reduce the House to a formal and not an efficient branch of the Government.

Treaties are contended to be paramount to the laws; the PRESIDENT and Senate make these Treaties, and when made and proclaimed as the supreme law, there is a predestinated necessity in the House to make the requisite provisions for carrying them into effect. The danger of this doctrine, he said, could not be better exemplified, than by a reference to the circumstances that attended the late Treaty in its progress. Three years ago a difference took place between the different branches of Government, as to the policy that should obtain in reference to the conduct of one foreign nation. The House were unwilling to trust solely to the magnanimity of the King, and wished to make some exertions themselves for self-protection. With this view several measures were proposed, viz: commercial restrictions, non-importation, embargo, sequestration, or rather arrestation upon the ground of the *status quo*. One of the measures passed the House by a respectable majority, but was rejected in the Senate by the casting vote of the VICE PRESIDENT. The PRESIDENT appointed an Envoy Extraordinary, who entered into certain stipulations, which, being sanctioned by two-thirds of the Senate it is now contended, are to operate to the destruction of the powers specifically vested in the House.

If the above was a true statement, he said, and he did not see in what particular it could be contradicted, then the Executive had been exerted as

a check upon the Legislative power, for the negotiation necessarily foreclosed any further Legislative proceedings. It did more than this; the Executive legislated against legislation, and overruled them on the subject in contest. He should not advert at this time, he said, to the collateral circumstances which attended this business, nor go further in detail; he wished only to remark generally on the dangerous operation of the doctrines contended for. Now, it is said, the House have nothing to do but to obey, to appropriate the necessary money, leaving all deliberation aside.

Three years ago there was a further difference of opinion between the branches of Government on another interesting question. One branch was disposed to have an increase of the Military Establishment; a proposition to this effect was brought into the House, and negatived. The Senate, notwithstanding, successively sent down two or three bills for an increase of the Military Establishment—they were as repeatedly negatived by the House. Here different views existed, but the doctrine of checks was liberally exercised, and he thought to a good purpose.

If the PRESIDENT, said Mr. GILES, can, by the assistance of a foreign Power, legislate against the rights of the House to legislate, and his proceedings are to be binding on the House, it necessarily destroys their right to the exercise of discretion. If he can by Treaty declare, that commerce shall not be regulated, that property shall not be sequestered, and that piracies shall be judged and punished as he thinks fit; if he is to exercise the unlimited Treaty-making power contended for, what security have we that he may not go further when the negotiations are renewed with Great Britain, agreeably to the stipulations of the present Treaty? What security have we that he will not agree with Great Britain, that if she will keep up an Army of ten thousand men in Canada, he will do the same here? How could such a stipulation be got over by the House, when they are told that in matters of Treaty they must not pretend to exercise their will, but must obey? How will this doctrine operate upon the power of appropriation? A Military Establishment may be instituted for twenty years, and as their moral sense is to prevent their withholding appropriations, they can have no power over its existence.

Gentlemen should pause, he said, and consider what would be the situation of the United States, under this doctrine, before they give it their sanction. What he had mentioned as a possible result of it, he observed, would bear more evidence of probability if the doctrine was established. Establish the doctrine, said Mr. G., and under its influence he thought there was a greater probability, at this day, of a stipulation for such an armament, than there was on the day the late Envoy was appointed, that such a Treaty as the present would have been the result of the negotiation. He took a retrospect of the circumstances attendant on that negotiation. When the Envoy was named, what were the expectations? Not that he was going to throw himself upon the magnanimity of the Monarch; but that he would

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obtain a redress of grievances, and provide for the future security of our neutral rights; but what redress or security does the issue of the embassy promise?

Gentlemen had gone so far as to declare, that an attempt to examine the merits of the Treaty was rebellion, was treason against the Constitution. What justifies these harsh epithets? Such assertions could only create ill-will, and could not tend to the investigation of truth. Another argument of the same nature had been used. It was said, that the attempt at exercising a control over the Treaty-making power was disorganizing the Government. He believed the contrary would be found to be the case: The doctrine advocated by the friends to the motion, only goes to claim a negative voice in the business of Treaty-making; whereas the doctrine of its opposers claims the exercise of a power, that would supersede the specific authority delegated to the Legislature in all cases whatever. How would even a rejection of the Treaty disorganize the Government? Suppose the House should vote the Treaty null, and the next day quietly pass a land bill; would not the bill go calmly through its different stages? There is no foundation for the imputation; it is mere clamor and noise, *vox et præterea nihil*. Checks have been exercised before, and have not produced these dreadful consequences. When the House attempted to suspend the intercourse between this country and Great Britain, they were checked by the Senate, the Treaty was the only evil consequence of this. The use of checks is destroyed when the doctrine of coalition among the different branches prevails. Such coalescing does not render the Government strong; the strength of such a Government as ours is in the confidence of the people. Then let each branch make a manly use of its delegated authority; they will retain that confidence and secure that strength.

He did not believe, however, that the American people could be enslaved by their Government: they were too well convinced of the efficacy of the system of checks to suffer their liberties to be filched from them for want of the exercise of them. He remarked, the House had not been told yet how the exercise of discretion in the business of the Treaty was to destroy the Government. Possibly the Treaty with Britain is to give it energy, and if it be defeated, then disorganization was to ensue. But is the Government of the United States so low as to require foreign aid for its support? If it is tottering thus early, it may want, ere long, new negotiations and new concessions to prop it.

This would be a dreadful dilemma, that the Government should not possess efficacy enough in itself, but must lean on Great Britain for support. This would be a great reflection on the Government, and the conclusion to be drawn would be, that the confidence of the people had been misplaced. He believed the Government a Government of checks; that it was not intended the energy of the Executive was to be increased by a coalition or subordination of departments, and propped by a foreign Power.

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He concluded by observing, that the interpretation of the Treaty clauses of the Constitution, as expounded by the gentlemen, would lead to a despotism of the worst kind. And if they were to plunge the nation headlong into the evils that must result from the establishment of the doctrines contended for by the empty sounds of war and disorganization, he should then lament the weakness—he should then, and not till then, distrust the discretion of the House.

Mr. G. said, that before he concluded he could not help remarking, that the terms of war and disorganization had been often applied to himself, and others, who generally associated with him in political opinions; that he had at all times beheld those groundless calumnies with contempt; that he disdained them, and had never condescended to any explanation. He remarked, that he was not in the habit of making professions; he knew that his conduct was the criterion by which he ultimately would, and ought to be, judged; and to that, with pleasure, he made his appeal for his justification.

Mr. SEDGWICK said, that, after the length of time which had been consumed, and the talents which had been so ably exerted in the discussion of this subject, he should not think himself authorized to call the attention of the Committee to any observations of his; but, that he considered it in principle, and in its consequences, as the most important question which had ever been debated in this House. It was no less than whether this House should, by construction and implication, extend its controlling influence to subjects which were expressly, and he thought exclusively, delegated by the people to another department of the Government. We had heretofore been warned emphatically against seizing on power by construction and implication. He had known no instance in which the caution that warning enforced, deserved more attention than on the present occasion.

It must, he said, have been foreseen by the author of the motion, that it would ultimately be contested on the present ground. No sufficient reason had been given as an object for the call. The various reasons which had been hinted at had hardly been suggested before they were respectively abandoned. It would be remembered, and indeed had been avowed, that a request, such as the present, was in nature of a demand. It was true, if we had authority on the subject of forming Treaties, we had a right to all the means of exercising an intelligent discretion; and the demand, of course, was well founded. But, if we had no such authority, and we had none, unless it could be discovered in the Constitution, then the demand had no good foundation on which it could rest, and was, in his opinion, an attempt at seizing on power by usurpation.

He was perfectly sensible in how disagreeable an attitude a man would stand, who should attempt to limit the extent of power claimed by an assembly to which he should address himself. He had some of the most powerful inclinations of human nature to contend with. He felt the full force

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of the influence of this principle, as it would afford the cause of repulsion and resistance to the arguments which he might submit: But having formed an opinion, perfectly satisfactory to his own mind, from the best light which honest investigation could procure, he thought it a duty he owed his country and posterity—a duty rendered more indispensable from the obligations which were upon him—to obey the will of the people expressed in the Constitution of their Government, which he had sworn to support, solemnly to declare that opinion, and the reasons on which it was founded.

He, in his conscience, believed, that if the Constitution could operate the benefits its original institution intended—that if the Government should be rendered adequate to the protection of liberty, and the security of the people, it must be by keeping the several departments distinct, and within their prescribed limits. Hence, that man would give as good evidence of Republicanism, of virtue, of sincere love of country, who should defend the Executive in the exercise of his Constitutional rights, as the man who should contend for any other department of Government. If either should usurp the appropriate powers of another, anarchy, confusion, or despotism, must ensue: the functions of the usurping power would not be legitimate, but their exercise despotism. If the power of controlling Treaties was not in the House, the same spirit which might usurp it might also declare the existence of the House perpetual, and fill the vacancies as they should occur. The merits of the present question, it seemed to be agreed, depended on this right; it was of infinite importance, therefore, to decide it justly.

It would be taken for granted, and it would be conceded on all hands, that we were to resort to the Constitution, to know the extent and limits of our power, and if we found not there a clear evidence of its existence, we ought to abandon the exercise. It was certain we had not any express delegation to make or to control the public will in any of our relations with foreign nations. On the other hand, we found it declared, that the **PRESIDENT** should have power to make Treaties by and with the advice and consent of the Senate, provided two-thirds of the Senators present concurred. Treaties, to attain the ends for which they were designed, were, from their nature, supreme laws; but the Constitution had, in another place, declared, Treaties made under the authority of the United States should be supreme laws. Gentlemen had said, that it was not declared that Treaties made by the **PRESIDENT** and Senate should have this effect; but those made under the authority of the United States. The question then recurred, what Treaties were made under the authority of the United States? The true answer undoubtedly was, Treaties made by those to whom the people, by their Constitution, had delegated the power. The **PRESIDENT**, qualified as had been mentioned, had expressly, and none else had such power. If we were to rest the subject here, it would seem to follow irresistibly, and to be incapable almost of higher proof, that whenever a compact was formed by the **PRESIDENT**

with a foreign nation, and had received the advice and consent of the Senate, if it was of such a nature as to be properly denominated a Treaty, all its stipulations would thereby, and from that moment, become “supreme laws.”

That such had been the construction from the commencement of the Government to the promulgation of the British Treaty, he believed would be universally admitted; and but for that Treaty, probably never would have been denied. Did this afford no evidence that the construction was a just one? Was the subject a less important one, its decision might be safely trusted on this ground. But all-important, as it was, for the purpose of further investigation it might be useful to consider the nature, extent, objects, and effects of this power.

What authority was then delegated under a grant of power to form Treaties? Did not the term Treaties include all stipulations between independent nations relative to subjects in which the contracting parties have a mutual or common interest? If it had a more confined or limited sense, it became those who contended for it, to mark the limits and designate the boundaries. Without a power so extensive, much of the benefit resulting from amicable intercourse between independent nations would be lost; and disputes and differences, which are inevitable, would have no means of amicable termination. From the obvious utility, and indeed the absolute necessity, that such a power should be exercised, we know of no civilized nation, either ancient or modern, which had not provided the organs of negotiation to the extent, substantially, which he had mentioned. The power indispensable had always been delegated, though guards had been provided against its abuse by different means.

It was now to be inquired, whether the power of treating was wisely deposited, although he was inclined to believe it could not be intrusted to safer hands. It was sufficient, that those who had the right, the citizens of America, had declared their will, which we were bound to respect, because we had sworn to support it, and because we were their deputies.

The power of treating between independent nations might be classed under the following heads: 1. To compose and adjust differences, whether to terminate or to prevent war. 2. To form contracts for mutual security or defence; or to make Treaties, offensive or defensive. 3. To regulate an intercourse for mutual benefit, or to form Treaties of commerce. Without the first, war and contention could only be terminated by the destruction of one of the parties; without the second, there could be no defence, by means of union and concert, against superior force; and without the last, a profitable and beneficial intercourse could not be arranged on terms of reciprocity. Hence, then, it must be evident to every unprejudiced mind, that by a grant of power to make Treaties, authority was given to bind the nation by stipulations; to preserve peace or terminate war; to enter into alliances, offensive and defensive, and to form commercial Treaties.

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This power, he held unlimited by the Constitution, and he held too, that in its nature, to the extent he had mentioned, it was illimitable. Did a serious difference exist with a foreign nation, in determining on the nature and extent of the stipulations which might be necessary to adjust it, the cause of injury, national rights and honor, the evils of war, and all circumstances of relation between the two countries, must be taken into account. In forming alliances, the threatened pressure, your own and your enemy's relative strength, the objects of acquisition or defence, must be considered. And, in adjusting an equitable intercourse for commercial purposes, a thousand circumstances present themselves for nice calculations. A thousand circumstances of foreign relations would occur in the history of every country, under which nothing short of unlimited powers of negotiation would be adequate to a prevention of enormous, perhaps ruinous evils.

But it might be objected, that a power so enormous, and comprehending such essential interests, might be abused, and thence asked, where is the remedy? To this he answered, that a national association required, for the great purpose of preservation, an unlimited confidence on many subjects. Hence, not only this, but perhaps every other national Government, had delegated to it an unlimited control over the persons and property of the nation.

It might, by the express power given to it of raising armies, convert every citizen into a soldier, and, by a single assessment of a tax, it might command the use of all the property in the country.

The power to raise armies and taxes was limited in its exercise by nothing but the discretion of the Legislature, under the direction of its prudence, wisdom, and virtue. Was there no security against the wanton abuse of these enormous powers? Yes, it was to be hoped that the people, in electing the members of this House, and the States in choosing those of the other, would not select characters who, regardless of the public good, would wantonly impose on their constituents unnecessary burdens. It would be an additional security, that the interests of the rulers were inseparably connected with those of the people; that they could impose no burdens in which themselves did not equally participate. But, should all these guards be insufficient, was there no dependence to be placed in the *PRESIDENT*?—the man elected by a refined process, pre-eminent in fame and virtue, as in rank! Was there no security in the watchful guardianship of such a character? Responsible by everything dear and valuable to man—his reputation, his own and his fellow-citizens' happiness—was there no well-founded reliance on all these considerations, for security against oppression? If not, we had not the requisite materials by which to administer a Republican Government, and the project might be abandoned. After all, however, should the unlimited powers he had mentioned (and such powers must always be unlimited) be wantonly abused, was there no remedy? Yes, in the good sense and manly independent spirit of the people.

If intolerable burdens were wantonly imposed; if necessary to defeat the oppression, opposition and insurrection would not only be authorized, but become a duty. And if any man could honestly lay his hand on his heart, and in sincerity declare, that a compliance with any existing Treaty was worth more than our Government, our Constitution, our Union, and the liberty protected by them; to that man he was ready to declare, that opposition had become a duty. But, in every instance of opposition, whether in defeat of a Legislative act, or of a Treaty, the right of resistance resulted not from the Constitution itself, for it had declared no such right; no Constitution could declare it. It existed in original principles, and never could be exercised but by resorting to them.

Gentlemen had spoken of the subject as if the members of this House were the only Representatives of the people, as their only protectors against the usurpations and oppressions of the other departments of the Government. Who then, he asked, were the Senators? Were they unfeeling tyrants, whose interests were separated from and opposed to those of the people? No. Did they possess hereditary powers and honors? No. Who, as contemplated by the Constitution, were they? The most enlightened and the most virtuous of our citizens. What was the source from whence they derived their elevation? From the confidence of the people, and the free choice of their electors. Who were those electors? Not an ignorant herd, who could be cajoled, flattered, and deceived—not even the body of enlightened American citizens; but their legislators, men to whom the real characters of their candidates would be known. They did not possess their seats in consequence of influence obtained by cajoling and deceit, practised in obscure corners, where the means of detection were difficult, if not impracticable; but they were selected from the most conspicuous theatres, where their characters could be viewed under every aspect, and by those most capable of distinguishing the true from the false. For what purposes were they elected? To represent the most essential interests of their country; as the guardians of the sovereignty of the States, the happiness of the people, and their liberties. Who, as contemplated by the Constitution, was the *PRESIDENT*? The man elected, by means intended to exclude the operation of faction and ambition, as the one best entitled to public confidence and esteem. And was no confidence to be reposed in such characters, thus elected? Might it not, to say no more, be at least doubtful, whether the treating power might not be as safely intrusted in such hands exclusively, as with the participation and under the control of the more numerous branch of the Legislature, elected in small districts, assailed by party and faction, and exposed to foreign influence and intrigue? Whatever merits this, as an original question, might possess, the people had decided their will. To the *PRESIDENT* and Senate they had given powers to make Treaties; they had given no such powers to the House.

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It was not, in his opinion, proper, when investigating the Constitutional question of the extent of a particular power, and in what hands it was deposited, to divert the attention to a possible abuse of that power. Should it become a question whether Congress was by the Constitution authorized to raise armies, and the extent to which the power might be exercised, it would be unfair and improper to divert the attention from the inquiry of what was the truth, to the abuses which might result from the exercise of the power. To state that if such power existed, every citizen might, by the wanton abuse of it, be degraded from his rank, and subjected to the despotism of military discipline: To show that armies might be employed as the instruments of destroying liberty: To picture your country as strewn with human carcasses, and stained with human blood by their means. What would this be but to substitute prejudices instead of arguments? Still, however, it would remain true, that there should be some means of calling forth the whole force of the community for its security and defence. It would still remain true, that the power of Congress to raise armies was only limited by its discretion, under the direction of wisdom and patriotism. The same observations, changing their relations, might with equal justness be applied to the Treaty-making power. To be, and to continue a nation, required, on these subjects, unlimited confidence in the delegation of the necessary powers. The people had granted them, and provided against their abuse such guards as their wisdom dictated.

The gentleman from Virginia [Mr. MADISON] had stated five different constructions which possibly might be given to the Constitution on this subject. Three of which, and for none of them to Mr. S.'s knowledge had any man ever contended, the gentleman had proved to be unfounded. The fourth, that which he had given to the Constitution, if admitted, and it should be abused, might produce mischievous effects. Was not this true of all the great and essential powers of Government? If the controlling influence of this House was added, would the power be less? And if, under these circumstances, abused, would the injury be more tolerable? In short, was not this a kind of argument infinitely more tending to the production of prejudice, than to the discovery of truth?

The gentleman has really given no decisive opinion what was the true construction. He had, however, seemed to incline to a belief that to the stipulations of a Treaty relative to any subject committed to the control of the Legislature, to give them validity, Legislative co-operation was necessary. Of consequence, if this was withheld, the operation of the Treaty would be defeated. That it was at the will, and within the discretion, of the Legislature, to withhold such co-operation, and of course the House might control and defeat the solemn engagements of the PRESIDENT and Senate.

The gentleman who had suggested this opinion was well known to the Committee, and through-

out America. Mr. S. could not but observe that it was perfectly unaccountable to his mind, that that gentleman had yet to form an opinion to whom was delegated that power, the nature, extent, and effects of which he had so strongly and perspicuously detailed. The capacity of that gentleman's mind, long exercised on political subjects; his known caution and prudence, would authorize a request that he or his friends would explain how it was possible, if such as he states should have been the intention of those who framed the Constitution, that the true meaning should not have been expressed in the instrument? That when the gentleman went from the Assembly which framed the Constitution, immediately afterwards, to one of those which ratified it, he should have admitted an opposite construction? As Mr. S. would undertake, by and by, to prove that, in the Convention of Virginia, he did admit the very construction for which we now contended. He would take the liberty further to inquire, how it happened, that, if such was really the intention of the instrument, that such was the meaning of the people, no man had heard of it until the discovery was produced by the British Treaty? Strange national intention, unknown for years to every individual!

As the gentleman had been pleased to dwell on the idea of a co-operation between the powers of the Government, he would take the liberty to state, what had been ably explained by other gentlemen, that the power of making Treaties was wholly different from that of making ordinary laws; originating from different motives; producing different effects, and operating to a different extent. In all those particulars, the difference had been perfectly understood. For instance, the ordinary legal protection of property, and the punishment of its violation, could never be extended beyond your own jurisdiction; but, by Treaty, the same protection could be extended within the jurisdiction of a foreign Government. You could not legislate an adjustment of disputes, nor a peace with another country; but, by Treaty, both might be effected. Your laws, in no instance, could operate except in your own jurisdiction, and on your own citizens. By Treaty, an operation was given to stipulations within the jurisdiction of both the contracting parties.

It had been said that Treaties could not operate on those subjects which were consigned to Legislative control. If this be true, said he, how impotent in this respect is the power of the Government! What, then, permit me to inquire, can the power of treating effect? I will tell you what it cannot do; it can make no alliances, because any stipulation for offensive or defensive operations will infringe on the Legislative power of declaring war, laying taxes, or raising armies, or all of them. No Treaty of Peace can probably be made, which will not either ascertain boundaries, stipulate privileges to aliens, the payment of money, or a cession of a territory, and certainly no Treaty of Commerce can be made.

Was it not strange, that, to this late hour, it should have been delayed, and that now, all at

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once, it should have been discovered, that no power was delegated to any person to regulate our foreign relations? That, although a power was granted to the PRESIDENT and Senate to form Treaties, that yet there were such reservations and restrictions, that there remained nothing on which this power could operate? Or was it true, that this power was competent to treat with every Government on earth but that of Great Britain? Might he not be permitted further to inquire, if this Treaty had been formed with any other Power, with the precise stipulations it now contained whether there ever would have existed this doubt of constitutionality.

We had, he said, entered into Treaties of Commerce with many nations; we had formed an alliance, and entered into a guarantee with France; we had given Consular power, including judicial authority to the citizens of that country within our own jurisdiction; we had defined piracies, and provided for their punishment; we had removed the disabilities of alienage; we had granted subsidies, and ceded territory. All this, and much more, we had done, while the powers of the Government remained unquestioned, and none even thought that they required Legislative co-operation. Treaties, such as those, could, without opposition, and by unanimous consent, be ratified, and considered by force of such ratification, as supreme laws; but similar stipulations with Great Britain were clearly perceived to be unconstitutional, and PRESIDENT, Envoy, and Senate, were denounced for their respective agency, as infractors of the Constitution.

The objection, which he had just answered, had been brought forward by a gentleman from Pennsylvania, [Mr. GALLATIN,] with another nearly allied to it, if not resting on precisely the same foundation; that whatever stipulation in a Treaty required Legislative provision, or repealed a law, did not become a supreme law until it had received Legislative sanction. There was no limitation expressed in the Constitution on which to found either of those objections. If we claimed the power which the objections imported, the claim must rest on construction and implication alone. Indeed, the whole reasoning of all the gentlemen seemed to him to be capable of being expressed in a few words: The PRESIDENT and Senate, in the sole and uncontrolled exercise of the Treaty-making power, may sacrifice the most important interests of the people. The House of Representatives is more worthy the public confidence; and therefore, by our influence, we will prevent the abuse of power.

The gentleman, to prove his position, stated, that the power of treating in Great Britain and the United States is precisely the same. He then read a passage from *Judge Blackstone*, "that the sovereign power of treating with foreign nations was vested in the person of the King, and that any contract he engaged in, no power in the Kingdom could delay, resist, or annul." At the same time, he said, that certain Treaties, such as those of subsidy and commerce, were not binding until ratified by Parliament. Now, both these could

not be true; for it was no less than a direct contradiction in terms, to say, that there was no power in the nation which could delay, resist, or annul the contracts of the King, and at the same time to say, there was a power in the nation, the Parliament, which could delay, resist, and annul those contracts. Both the assertions could not be true. He was willing, however, to allow that the Treaties which the gentleman had mentioned, were not the supreme laws of that country, until approved by the Legislature. He had already said, that different countries had provided different guards against the abuse of this power. But why attempt to divert our attention from a construction of our own Constitution, to the vague uncertain customs and practices of other countries? Why compare the PRESIDENT and Senate to the King of Great Britain? In what was there a resemblance? In nothing. Why, then, perplex the subject by the introduction of irrelative matter? Was there perceived an interest in a diversion from the only legitimate source of information, the declared will of the people? If we found not there the power we claimed, we could exercise it only by usurpation.

Why did not gentlemen extend their reasoning further? Where, in point of principle, was the difference between restraining and controlling the Legislative power? The injury may be as great in the one instance as in the other; nor is there any more foundation for denying to the PRESIDENT and Senate the power in the one case than in the other, from any words or expressions in the Constitution.

If the gentlemen are right in their construction, if this was the understanding of the people at the time they deliberated on and ratified the Constitution, the power of the PRESIDENT and Senate of making Treaties which then created the most serious deliberation and alarming apprehensions, was the most innocent thing in nature. It could bind the essential interests of the nation in nothing. Could any man really believe that the agitation which a discussion of this subject occasioned, more, perhaps, than any other in the Constitution, could have for its object only the power of the PRESIDENT and Senate, in which two-thirds of the latter must concur, to digest schemes of Treaties to be laid before the Legislature for its approbation?

The gentleman from New York [Mr. HAVENS] and the gentleman from Virginia [Mr. GILES] had asserted the power of the Legislature to repeal Treaties; whenever the wisdom of Congress should concur in opinion with those gentlemen, we should then cease to contend respecting the construction of the Constitution on this subject. For whenever our nation should, in defiance of every principle of morality and common honesty, by its practice, establish its right to prostrate national honor, by sporting with the public faith, no nation would submit to be contaminated by a connexion with one which avowed the right of violating its faith by the infraction of solemn Treaties.

On all subjects of this sort, the real inquiry was

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and ought to be, what was the intention of the parties to this instrument? Hence a brief view of some interesting occurrences, which took place at the adoption of the Government, would not be impertinent, but might be useful.

A contemporaneous exposition of any instrument, and especially by those who were agents in its fabrication, had been allowed, and was, in fact, among the best guides to finding its true meaning. Gentlemen who had been members of the Convention, and unfriendly to the Constitution, with an intention of preventing its adoption, had stated to their constituents that the power of making Treaties, as confided to the PRESIDENT and Senate, was as extensive as was now contended for. Their intention could have been no other than to alarm the people with the dangerous extent, and what would be the pernicious exercise of this power. If this charge was unjust and groundless, what would have been the conduct of the friends of that instrument? They would have proved the charge to have been malicious and ill-founded. They would have shown that the Constitution was not liable to such an objection; that it could bear no such construction. They would, in the language of novel discovery, have said, that every subject of Legislation was an exception from the power of making Treaties; and thus they would have proved to the world, that the sages of our country had devised and offered to their enlightened countrymen a scheme of Government, destitute, by an express delegation, of the essential attribute of adjusting differences with other nations, and of agreeing with them on the terms of amicable intercourse. But they did no such thing; they admitted the power, proved the necessity of it, and contended that it would be safe in practice. Let me here, said he, appeal to any unprejudiced man, if he can possibly believe that the enemies of the Constitution could have made the charge against it, and that its friends would have admitted the truth of it, on the hypothesis that it was unfounded and false? They certainly knew what they had so recently intended, and having opposite objects in view, which excited their strongest wishes, it was impossible they should agree in imposing on the people a false and unwarrantable construction. So far he had extended his reflections as resulting from the conduct of those who formed the Constitution; a conduct from which he flattered himself, there flowed demonstration that the power of making Treaties was as extensive as was that which was now contended for. This being the concurrence of men who could not have united to deceive, with regard to which it was impossible they should be mistaken, formed a guide for our opinion, which could not mislead, which no degree of stupidity could mistake, nor the most ingenious sophistry successfully misrepresent.

So much he had thought proper to say, as respected the construction given to this part of the instrument by those who formed, who could not mistake, and who were under no temptation to misrepresent it. It might be necessary, in the next place, to inquire under what opinions it was

adopted; and if we perceived a correspondence of construction between those who formed and those who received and approved, we might then surely derive all reasonable satisfaction that we had discovered the truth. Here he believed that it might be asserted, without any danger of contradiction, that in the State Conventions it was, on one hand, affirmed that the PRESIDENT and Senate would, by the Constitution, have power to form Treaties on any subject in which the United States and a foreign nation had a common interest; and that Treaties so formed without any other aid or circumstance whatever, would thereby become the supreme law of the land; and that the exercise of this power was not so guarded as to render it safe to the public interests. On the other hand, it was admitted that such was the extent of the power, and it was attempted, at least, to be proved that it was so guarded that danger could not reasonably be apprehended from its exercise. It would be too tedious, and well might be thought unnecessary to consult all the materials which might be within our reach on this subject; but he dared to appeal to the recollection of every gentleman who was in a situation to know the facts, for the correctness of the statement which he had made; and he would read some few extracts from the debates of the Convention of Virginia, which would probably be, on this occasion, for many reasons, admitted as the best authority: and particularly, because the subject there was examined by eminent talents, and by minute and scrupulous investigation.

Mr. SENGWICK read the following passages from the third volume of the "Debates and Proceedings of the Convention of Virginia." From the speech Mr. George Mason, who was as well a member of the Federal Convention, as of that of Virginia:

"That he thought this a most dangerous clause. By the Confederation, nine States were necessary to concur in a Treaty: this secured justice and moderation. His principal fear, however, was not that five, but seven States, a bare majority, would make Treaties to bind the Union."

He then read the reply of Mr. George Nicholas to Mr. Mason:

"That the approbation of the President, who had no local views, being elected by no particular State, but the people at large, was an additional security."

Mr. S. said, that if it was true, as now contended for, that this House was intended to have a check on the principles which had been mentioned, and which, he had already shown, would extend to some of the stipulations of every Treaty which could be formed, it was utterly impossible it should not have been mentioned and relied on.

From a speech of Mr. MADISON he read:

"That he thought it astonishing that gentlemen should think that a Treaty could be got with surprise, or that foreign nations should be solicitous to get a Treaty ratified by the Senators of a few States; that should the President summon only a few States, he would, for so atrocious a thing, be impeached."

From the speech of another member, Mr. Henry:

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"That if two-thirds of a quorum would be empowered to make a Treaty, they might relinquish and alienate territorial rights, and our most valuable commercial advantages. In short, should anything be left it would be because the President and Senators were pleased to admit it."

[How, Mr. S. asked, could this be true, if the doctrine now laid down in support of this motion, was well founded?]

"The power of making Treaties, ill-guarded as it is, extended further than it did in any country in the world. Treaties were to have more force here than in any part of Christendom."

From Mr. MADISON's speech he read :

"Are not Treaties the law of the land in England? I will refer you to a book which is in every man's hand, 'Blackstone's Commentaries;' it will inform you, that Treaties made by the King are to be the supreme law of the land; if they are to have any efficacy, they must be the law of the land. They are so in every country."

From Governor Randolph :

"It is said, there is no limitation of Treaties. I defy the wisdom of that gentleman to show how they ought to be limited."

From Mr. George Nicholas :

"Have we not seen in America how Treaties are violated, though they are in all countries considered as the supreme law of the land?"

That Mr. Mason, speaking of this power, had said :

"It is true it is one of the greatest acts of sovereignty, and therefore ought to be most strongly guarded. The cession of such power, without such checks and guards, cannot be justified; yet I acknowledge such a power must rest somewhere : It is so in all Governments. If, in the course of an unsuccessful war, we should be compelled to give up part of our territories or undergo subjugation, if the General Government could not make a Treaty to give up such a part, for the preservation of the residue, the Government itself, and consequently the rights of the people must fall. Such a power must, therefore rest somewhere. For my own part, I never heard it denied that such a power must be vested in the Government. Our complaint is, that it is not sufficiently guarded, and that it requires much more solemnity and caution than are delineated in that system."

[Strange, Mr. S. said, that this gentleman did not discover, or was not told, that Treaties before they should become laws, must receive Legislative sanction.]

"There are other things which the King [meaning the King of Great Britain] cannot do, which may be done by the President and Senate in this case. Could the King, by his prerogative, enable foreign subjects to purchase lands, and have an hereditary, indefeasible title? Will any gentleman say that they [the President and Senate] may not make a Treaty, whereby the subjects of France, England, and other Powers, may buy what lands they please in this country?" "The President and Senate may make any Treaty whatsoever. We wish not to refuse, but to guard this power, as it is done in England." "We wish an explicit declaration in that paper, that the power which can make other Treaties, cannot, without the consent of the national Parliament, the national Legislature, dismember

the empire. The Senate alone ought not to have this power."

From the speech of Mr. Corbin, who was in favor of the Constitution :

"If there be any sound part in the Constitution, it is this clause. The Representatives are excluded from interposing in making Treaties, because large popular assemblies are very improper to transact such business, from the impossibility of their acting with sufficient secrecy, despatch, and decision, which can only be found in small bodies; and because such numerous bodies are always subject to faction and party animosities. That it would be dangerous to give this power to the President alone, as the concession of such a power to one individual is repugnant to Republican principles. It is therefore given to the President and Senate (who represent the States in their individual capacities) conjointly. In this it differs from every Government we know. It steers with admirable dexterity between the two extremes, neither leaving it to the Executive, as in most other Governments, nor to the Legislative, which would too much retard such negotiations."

That another member of the Convention (Mr. Henry,) after contending that the Constitution ought to be amended, so as to guard against the abuse of the Treaty-making power, by requiring the consent of the House, concluded his observations, by saying :

"That when their consent is necessary, there will be a certainty of attending to the public interests."

That the debate on this interesting subject was, in that Convention, concluded by a gentleman of this House, [Mr. MADISON] not by insisting on that security, which gentlemen had now discovered the Constitution provided against the abuse of this power. He had stated :

"That the power was precisely in the new Constitution as it was in the Confederation."

He had stated the checks which the Constitution had in fact provided, but it had not then occurred to him that the consent of this House was among them.

He also read the amendment which the Convention of Virginia proposed to the Constitution :

"That no commercial Treaty shall be ratified without the concurrence of two-thirds of the whole number of the Senate; and no Treaty ceding, controlling, restraining or suspending the territorial rights or claims of the United States or any of them; or their or any of their rights or claims to fishing in the American seas, or navigating the American rivers shall be made but in cases of the most urgent necessity; nor shall any such Treaty be ratified, without the concurrence of three-fourths of the whole number of the members of both Houses respectively."

Mr. SEDGWICK said, that it was manifest, beyond all doubt, from that amendment, that the Convention of that State supposed, that the Constitution as it then stood unamended, delegated to the President and Senate, and to the exclusion of the House, the whole power of making and ratifying Treaties, with all its consequences and effects.

He had stated, that the real inquiry was, what opinion was entertained on this subject by those

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who ratified the Constitution. If that opinion could be discovered, with honest minds it must be conclusive on the present debate. He had shown what opinion was entertained by Virginia; what power she meant to delegate, and to whom. That this opinion remained from that time until she proposed her late amendments, unaltered, appeared from the amendments themselves. That State then, and her Representatives here, who had expressed themselves, differed in opinion. He did not mention Virginia with intention of producing any unpleasant sensation. He was willing to allow that she was great, wise, intelligent, enlightened, and, if gentlemen pleased, moral. Her opinion derived additional authority from her respectability. It was not Virginia alone, but he was persuaded every other State had given precisely the same construction. *That the Treaty-making power, with all its effects and consequences was solely and exclusively in the President and Senate.* And he would dare to challenge gentlemen to produce a solitary instance of its being adopted under any other idea. Indeed, the agitation which was at that time produced, would of all things be the most ridiculous if any of the other constructions were true. If the power was checked as was now contended, it was impossible danger should be apprehended from its exercise; it could indeed do neither good nor evil.

Here then, he said, we had the evidence of those who framed, and of those who received and approved the Constitution. There was another source of inquiry, which would confirm it, if it wanted confirmation, that construction for which he had contended. It was the construction which had been practically given by those who had administered our Government, from the commencement of our foreign relations to the present session; a construction which had been assumed, admitted, or acquiesced in, by our National and State Governments, and by every individual citizen, until they received new light, by our having accommodated our causes of contention with Great Britain, and escaped the evils with which we had been threatened from that source.

The association which preceded any express contract between the States, was supposed to imply an authority to form national compacts, imposing national obligations, and pledging the public faith. Hence our treaty with France, which preceded two years our national association, the Confederation, had been supposed binding on us, and not only obliging us to the faithful performance of our express engagements, but as drawing after it undefined, unlimited, and perpetual obligations of gratitude. This seemed, so far as respected defined obligations, to be a rational deduction, from what is an inseparable attendant on national associations, and without which a nation would be destitute of one of the best means of securing its happiness, and even existence.

To pursue, he said, the history of our country on this subject in the order of time, it would not be pretended that, under the Confederation, the powers of Congress to form "Treaties and Alliances" were more extensive than those of the

PRESIDENT and Senate under the Constitution to form "Treaties." The Legislative powers of the nation, then residing with the several States, were as obstructive to the operation of Treaties (and extended to all the objects which the National and State Legislatures now comprehend) as the Congressional Legislative can now be. Yet under the Confederation Treaties of Alliance, of Peace, of Commerce, were made; nor until the present moment has their obligations been denied, though they contained stipulations, perhaps, on all the subjects to which the treating power could extend. No Legislative provision had been thought necessary to give them validity; and he dared appeal to every member of the Committee, that every enlightened citizen had admitted their binding obligation as supreme laws. That the Treaty of Peace in particular, which controlled the most important rights of sovereignty, arrested the hand of justice in inflicting punishment for the highest crime which a citizen could commit, treason, and stayed proceedings in cases of confiscation, for forfeitures which had been incurred, had always received this construction. He would add, that it was well understood to be the opinion of that tribunal which the Constitution had authorized to pronounce the law, the Supreme Court, that the Treaty from its own powers, repealed all antecedent laws which stood in the way of its execution.

To proceed further on: Since the adoption of the Constitution, the powers now denied had been constantly exercised with all the consequences and effects now contended for, and, until the present moment, unquestioned. Peace had been concluded, subsidies granted, payment of money stipulated, territorial rights discussed and decided on. Treaties for those purposes had been ratified, not by venal and corrupt majorities, but by virtuous unanimity. Hence, from the moment we had become a nation, under every form of our implied or expressed association, the powers now denied had been exercised, not only without question, but with unqualified approbation.

There was one more point of light in which this subject ought to be viewed. In the year 1789, it was proposed to discriminate in the imposition of our duties, between the nations with whom we had, and those with whom we had not, Treaties of Commerce. The author of this proposition renewed the same in the year 1791. This was virtually acknowledging the validity of the Treaties which did exist, and inviting those nations who had not already, to form Commercial Treaties. Something more than this was done by the motions which some gentlemen of the minority of the Senate are said to have made when this very Treaty was in discussion. Their motions recommended an accommodation by Treaty of all subsisting differences between the two countries. It could not escape remark that these several propositions and motions were supported by all that description of persons who now opposed the Treaty.

It would not then be deemed impertinent to inquire, it was worthy attention, what was imported and admitted by this conduct and those proposi-

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tions? They undoubtedly implied a concession that the subsisting Treaties were of validity; why else should they be considered as a meritorious cause of favorable discrimination? They implied, too, that there existed in this country a power to treat on commercial relations, and to adjust subsisting differences.

If without Legislative aid (and they had received none) those Treaties would authorize the Legislature to derange the commercial pursuits of the nation, and enter into Legislative hostility with that nation with which we had the most extensive relations, it must be from the competency of the Treaty-making power on the principles on which we contended. Strange again, he would say, it must appear that the true construction of the Constitution, on this very important subject, should have escaped the penetration and sagacity of the author of those propositions, during the time of forming and ratifying the instrument, and his whole active public life, from those periods until that of the publication of the British Treaty.

If, then, it was true, as he had endeavored to prove, that by the power given by the Constitution to the President and Senate to make Treaties, they had an authority to the extent he had supposed with all its consequences and effects; if Treaties so formed did in fact become supreme law, then being compacts they bound the public faith and could not be violated without national disgrace and personal dishonor. They might require Legislative provision to carry them into effect; but this neither implied nor authorized the exercise of discretion, as to refusal. The Constitution he had had frequent occasions of saying, prescribed a Government of departments. Each was intended to be furnished with the means of self-preservation and defence. For this purpose it was declared that the President should receive a compensation to be ascertained by law. Laws were to be made by the Legislature, of which this House was one branch. To support the Constitution each department must be enabled to perform the functions assigned to it. To enable the Executive to do its duties, the compensation must be provided. It was then necessary to the support of the Constitution, that the compensation should be made. We have sworn to support the Constitution. The people by their Constitution had solemnly engaged that whoever was the President should receive a compensation. We had been deputed to discharge the duties and engagements which our constituents had assumed. Under these circumstances no man of common honesty could declare that we were at liberty to refuse all provision.

The gentleman from Virginia [Mr. MADISON] had attempted to make a distinction between the duties we had imposed on us by the Constitution and such as were enjoined by law. He could perceive no foundation for any such distinction. After the salary of the President was ascertained by law, it could not be paid without an appropriation; would any one say he was at liberty to withhold it? No man, he presumed, would wish to risk his reputation by such an assertion. For such

conduct instead of supporting would tend to subvert, and would, if persisted in, annihilate the Constitution. This was undoubtedly one of the most important of the public contracts; but the truth was, in fact, that we were bound to perform all the public engagements. The truth was that our national association was a compact of virtue. To support the Constitution it was necessary to preserve public faith. To promote the public happiness it was essential to hold sacred, and to perform, the public engagements. In this were included all engagements, whether expressed in the form of Constitution, of laws, or of Treaties; in any way, indeed, in which the people had agreed that their will and their duties might be expressed.

Mr. S. concluded by observing, that he had intended to have presented the subject in several other important aspects, but he had already trespassed on the patience of the Committee. He would, as the time of adjournment was passed, suspend for the present any further observations; and he hoped that all the grounds which he had left unoccupied would be taken by other gentlemen, so as to supersede the necessity of troubling the Committee with any further observations on this subject.

MARCH 14.—In Committee of the Whole on Mr. LIVINGSTON'S resolution:

Mr. SAMUEL LYMAN said he rose only to make a few observations. He was against the resolution now on the table, as involving a doctrine, in his opinion not only inconsistent with the principles of the Constitution, but also inconsistent with the laws of nations. In debating the merits of this resolution, an exceedingly important abstract Constitutional question had arisen, viz: How far that House had a right to exercise their Legislative discretion and judgment relative to carrying a Treaty into effect. In order to answer this question, he would raise two premises. And, first, by the Constitution, the Legislative powers of that House, in co-operation with the other branches of the Legislature, extend to all objects within the reach of their sovereignty, excepting the reservations to the distinct sovereignties of the several States which compose the Union; but beyond those boundaries their powers could not extend. Secondly, there is, by the Constitution, attached to the Legislature a subordinate kind of power, of a limited and ministerial, or Executive nature. At present, it did not occur to him that this subordinate power was to be exercised in its simplicity, excepting in two instances, viz: 1st, for calling a Convention under certain circumstances to amend the Constitution; and, 2dly, for carrying into effect Treaties which are constitutionally made; for these two purposes, the people, who are the source of power, had stripped that House of all Legislative authority, and made them only the executors of their will; therefore, upon these premises he answered, if a Treaty was unconstitutional, they had an undoubted right to exercise a Legislative discretion and judgment relative to carrying it into operation, for they were sent there as the guardians of the rights of their fellow-citizens, and, for that purpose, are sworn to support

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the Constitution; but if the Treaty was Constitutional, they had not a right to exercise that discretion; for, without their intervention, it becomes the supreme law of the land, and virtually repeals all laws which are repugnant to it; and in that case that House is bound to obey it, and to carry it into complete execution; for, by the Constitution, the power of making Treaties is vested solely and exclusively in the Executive department. In the former case, they have a right to exercise a deliberative or Legislative power, but not in the latter case; they could there only exercise a ministerial or Executive power. So that herein, said he, lies the true distinction, and it arises from the nature and principles of the Constitution. Gentlemen would do well to recollect *Miller and Delolme* upon the British Constitution, when they form a comparison of their Constitution with the Constitution of England, and to advert to one important circumstance, which is the source of a considerable dissimilarity, especially as to the power of making Treaties: The Constitution of this country is written, and the powers of the several Departments of Government are clearly and accurately defined; but the Constitution of England is made up of customs and precedents, the influence of which has been alternately augmenting or decreasing from time immemorial, owing to a perpetual conflict between the Sovereign and the House of Commons, the Government being in its origin an absolute monarchy, and founded upon conquest; but the spirit of that great nation, by the subtlety and adroitness of their House of Commons, who have been watchful of favorable junctures, has, as it were, surreptitiously deprived their Sovereign of many of his royal prerogatives. This check upon his Treaty-making power was, among others, an important achievement.

In this country they had only a right to exercise a deliberative or Legislative power relative to Treaties which are unconstitutional; but they could only exercise a ministerial or Executive power relative to Treaties which are Constitutional; and in forming an opinion relative to the constitutionality or unconstitutionality of a Treaty, all they want were the Treaty and the Constitution, and then, by comparing the two instruments together, and upon that comparison alone, form their judgment. From these premises it conclusively follows, that, as they have no occasion, so they have no right, to call upon the Supreme Executive for the papers in question. This doctrine, he thought, necessarily resulted not only from the principles of their Constitution, but also from an important principle of the Law of Nations. For all nations between whom there are existing Treaties have a kind of property lodged in the secret cabinet of each other, and no nation can, consistently with good faith, publish to the world the secret negotiations which led to forming either of those Treaties. To prove this principle, a recurrence may be had to *Paley's* Philosophy and *Vattel's* Law of Nations. This principle of the Law of Nations is predicated upon an important principle of the law of nature. Here, then, is no necessity of recurring to written au-

thorities, for every sentiment of their nature enforced conviction, and, of consequence, is clothed with all the solemnity of moral obligation.

This principle of the law of nature is no less than the law of self-preservation, as relative to themselves, their nation, and all other nations; for, what would be the consequence if the reverse of this doctrine was established as the Law of Nations? The consequence would be pernicious and destructive among the nations; it would be the source of jealousies, of Carthaginian faith, of war and bloodshed.

He had not the least doubt of the constitutionality of a Treaty, when the stipulations in it were of such a nature as not to respect objects of legislation, but only objects with lay beyond the bounds of their sovereignty; for beyond those limits their laws could not extend as rules to regulate the conduct of subjects of foreign Powers; and although some stipulations in a Treaty may respect objects which were within the reach of their sovereignty, yet it may be in such manner as to be strictly Constitutional; for such stipulations may be not only pertinent, but absolutely necessary in forming the Treaty. This conclusion, he thought, was the natural and necessary result of a fair and liberal construction of the principles of the Constitution, and especially of that paragraph which vests the power of making Treaties in the Supreme Executive, with the advice of the Senate.

Mr. L. said he was sensible he had been delivering an unpopular doctrine, but that he was deeply impressed with its truth, its reality, and its importance; and that the obligations of an oath had prevented his silence on the occasion.

Mr. BALDWIN said he had before expressed his opinion in general terms, in favor of this question. It must have been observed that he had been for several days noting the debates, and preparing to take part in them. He had intended to have introduced the debate on Friday morning last, but a singular incident prevented him, which he felt it to be his duty to take this earliest opportunity to state to the House. Mr. B. then said: About five minutes before I expected to rise on the question, I was called out of the House by a person then unknown to me, who said his name was FRELINGHUYSEN, and whom I found to be a Senator of the United States. After a number of interviews, he observed, with great expressions of pain and regret, that he was at last obliged to the unwelcome office of delivering me that letter, which I opened and found to be a challenge directed to me from JAMES GUNN, who is also a Senator of the United States. The pretext for this transaction was, to extort from me some private letters which I had received early in the session from a number of my constituents, expressing their wish that I would endeavor to prevent any thing being done in Congress to validate the Mississippi Yazoo Land Speculation before the meeting of the State Legislature. There was no complaint of any personal indecorum or disrespect at all: whether they were actuated in their conduct solely by interest in Yazoo speculations, I will not pretend to judge.

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The revival of a transaction of so old a date at that particular moment, was to me surprising. Not knowing their degree of relation to this question between the two Houses, and not knowing the cast of character but of one of them, I am left only to conjecture. It was so peculiarly timed, and the professed object also of so peculiar a nature, to interrupt the channels of confidence for free communication between me and my constituents, that I have thought it my duty not to let the treatment of it depend on my own individual discretion. I consider it as in the discretion of the House. Mr. B. also observed that he felt himself under the necessity of using this as an apology for the apparent neglects of Friday, after the particular attention he had before appeared to pay to the discussion; and for his not being able to notice any of the proceedings in the debate of Friday, he had supposed he had lost the opportunity of offering his opinion, but was glad to find the question had not been taken, as he was unwilling to suffer this, or even a greater interruption, to prevent him from declaring his opinion, as he had before intended.

Mr. B. then began his remarks on the question, and observed that, from the course which the business had taken, the subject seemed to be one thing and the discussion another. He begged leave first to consider the question, partly with a view to rescue some remarks which he had made when the question first presented itself, from a singular envelope which one or two members have thought proper to attempt to throw about them. He did not then say that it was advisable to request these papers of the **PRESIDENT**, for the sake of publishing them; that published they ought to be; that there were no secrets in Government now-a-days; and that the doctrine of mysteries was exploded.

The mistake, if it was merely a mistake, must have arisen from not attending to his first observation, which was nearly as follows: that they were obliged, at any rate, to go into the subject; the House had ordered the Committee of the Whole to proceed to consider the Treaty, and the petitions from their fellow-citizens complaining of different parts of it; the committee must be formed, the subject taken up, propositions upon it must be received, and some result concluded on. The only question, then, was, whether to take up the subject unexplained as it was, merely from the instrument and petitions, or to request any information that might be thought useful to the discussion, and not improper to be communicated, which might guard them from error, and lead them to a proper result. To this it was objected, that these papers were secrets of the Executive department, &c. In this connexion it was he made the observation alluded to; that he hoped, on reflection, that objection would not appear to have so much weight; that, since they had been a free people, the different Governments in this country, and the different departments of Government, appeared to be under an increasing conviction (which, he thought, had been much strengthened by experience) that a rigid adherence to the

old mysterious doctrines of Governmental secrecy was not necessary; that, in place of it, it seemed now to be believed that it was desirable, as far as possible, to have Governmental regulations accompanied with light and information, and as full an exhibition of the reasons on which they are founded as the nature of them will permit. He had almost brought his own mind to believe that there was but one limitation to the extent of this principle, and that was, that, while measures were in the transaction, and in an unfinished state, it might, at many times, be improper to disclose them. Proofs could not be wanting that these impressions had such weight on the mind of the **PRESIDENT** that he persuaded himself there was no danger of their making an unfavorable impression on his sentiments, qualified as the motion had been by the last amendment. It was said the **PRESIDENT** would have published these papers unasked, if there had not been an impropriety in it. There might be a diplomatic impropriety in disclosing the particulars of a negotiation unless some kind of occasion led to it—like an individual too freely disclosing private letters; but when it was known that there was occasion, it is a proper justification.

A gentleman from South Carolina [Mr. SMITH] had undertaken to controvert these assertions. His proofs are too remarkable not to be noticed: his first was, that the old Congress had animadverted on the conduct of a member from Rhode Island, for improperly communicating some matters which had been intrusted to his confidence; the second was, that they now had a rule for clearing their galleries. Let that gentleman look at the secret Journal of the old Congress, and see how it continually diminished till it was become almost nothing; let him look over the United States, and see how many public bodies which used to deliberate in secret have now their doors open; let him look over the communications, of mere Executive business, from the **PRESIDENT OF THE UNITED STATES**, for these two or three years past; let him read the rule of their own House, as it now stands, on the subject of clearing the gallery, and see how much it is narrowed from the rule which was in force for the first two or three years—and then let him declare whether there is not some foundation for the assertions which he had attempted to combat. He hoped he should be excused for having detained the Committee by some repetition of what he had before said—it was the strict debate of the question, and had been held up undefended in two unfavorable attitudes. He could not patiently see observations that appeared to him so important, so well grounded, and so strictly applicable to the question in debate, hunted from the House, because the attention of gentlemen, who at other times would not have suffered it in silence, had been absorbed by a still more important direction which the discussion had taken. He should conclude this part of his observations, which he considered as properly the debate of the question, by an expression of his wish that gentlemen would reflect in what light they exhibited themselves, and what must be the tendency of their opinions, if they avowed themselves the adversa-

ries of his observations, as he had now explained them. He had hoped, when he first made the observations, they had not been useless; they still had great weight on his own mind—he believed they had on the minds of some other members.

Mr. B. then proceeded to consider the question in the form in which it is presented by the discussion. He was sensible of the disadvantage any person must labor under and particularly himself, in attempting to speak upon it, after it had been so long and so very ably discussed. It would be impossible for any person to propose to himself a strict and regular plan of viewing the subject without going over a great deal of the ground that had been before taken by other gentlemen. This, in the present stage of the business, would be so tedious—and any attempt to improve upon their statements would be to him so hopeless—that he should decline the task, with barely making the observation as an apology for a less formal, though he hoped not useless, submission of some thoughts which had occurred to him on the subject.

He said, it was remarkable that several gentlemen rose with very different expressions which had been said to contain the subject in discussion. It was certainly important to agree exactly on that point. The least variation in the point of departure would soon diverge till they were out of sight of each other, and yet each one keep a straight direction. One gentleman had stated that the question was, whether this House should feel itself at liberty to judge over the heads of **PRESIDENT** and **Senate** on the subject of **Treaties** without restraint: his reasoning seemed to be built on that proposition. Another gentleman had said that the question was, whether the power of making **Treaties** was given by the Constitution to the **PRESIDENT** and two-thirds of the **Senate**, or to the **PRESIDENT** and both branches of the Legislature. He might mention several others, but he called the attention of the House to the fact, to settle the point, that they might at least agree what they were talking about. The question, said he, on the table is, to request of the **PRESIDENT** papers respecting the **Treaty**: the objection is, you ought not to ask for the papers, because you have no right to touch the subject. He begged leave then to ask, with the utmost candor and respect, whether the real question now depending and brought into dispute by this motion, is not whether all questions relating to this subject are not so definitely and perfectly settled by the Constitution that there was nothing for that House to deliberate upon on the occasion, but only punctually to provide the funds to carry the **Treaty** into effect. If it were allowed that there might be any possible or extraordinary cases on the subject of **Treaty**-making in which it might ever be proper for that House to deliberate—as, for instance, offensive **Treaties** which might bring the country into a war—subsidies and support of foreign armies—introduction of an established religion from a foreign country, or any other of those acts which are by the Constitution prohibited to Congress, but not prohibited to the makers of **Treaties**; if it were allowed that there might

possibly exist any such case, in which it might ever be proper for Congress to deliberate, it would seem to be giving up the ground on which the discussion of the present question has been placed; what agency the House should take, and when, would be other questions. Whether a case would probably occur once in a hundred years that would warrant the House in touching the subject, is of no consequence to the debate. The right is denied in the largest sense. The assertion is that the House has no right to deliberate or to look into any papers on the subject; that the people have by the Constitution, reposed the whole of their confidence on this subject elsewhere; that, to attempt to deliberate upon it, or to ask for any papers respecting it, is treason and anarchy.

If this ground were once given up, he should be infinitely less anxious what the House might do in any particular case: these would rest on their individual merits. For his own part, he was by no means disposed to carry the interference of the House to any extreme; but he could not express his abhorrence of the doctrine in the extent to which some gentlemen have carried it in this discussion. He begged leave to entreat gentlemen again candidly to review the few words in the Constitution on which they rested so much, and to ask whether they appeared to be such labored expressions as they supposed—so apt and definite as to mean exactly what they contend for, and nothing else, and whether all the words may not well be satisfied without, and stand more harmoniously connected with the other parts of the Constitution.

How much they intended to incorporate with this power of **Treaty**-making, under cover of contract with foreign nations, he had not heard any one attempt to explain; it seemed designed to stand distinguished as an indefinite, uncontrolled branch of the Government, the extent of whose powers was to be known only by its own acts. Its definition was to be, that it was indefinite—like what is said of some branches of the powers of Parliament; that no one has pretended or ought to pretend to know their extent; that they are not to be submitted to the judgment of any one but themselves; and that they never develop them but by the particular exercise of them; that they were to be left in this state, because, if they were defined, they might be eluded. However this might be found, respecting a foreign Constitution, it is making a monster of our own. There was not another part or lineament in it which appeared to be in the same mould or proportion.

He then proceeded to observe, that though upon these principles a definition of this power was not to be asked or expected, yet without doubt it might be permitted to contemplate it in its display. From the late exhibition which had been made of it in the instrument which had been laid before the House, it appeared to assume the right of repealing laws. He supposed it not to be denied, that in not less than four instances it had repealed laws of the United States. He had not heard any reason assigned why it might not have been extended to the whole book, and repealed all the laws passed

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before that time. It appeared also to have narrowed the former ground of legislation, and taken away the powers of the Legislature, if he mistook not, on five subjects on which proceedings had been begun, but not finished, at the preceding session. If the Committee on Unfinished Business were to make a full report, he supposed they must say, that with respect to the bill for the regulation of the sale of prizes; the bill for the suspension of commercial intercourse; a resolution for sequestration of Public Debts; also, for some commercial discriminations, and concerning naturalization, which they found among the unfinished business—they forebore to bring them to the view of the House, inasmuch as Congress had now no Legislative powers on those subjects. Such a report would at first strike with a degree of surprise. Has there been a Federal Convention? it would be asked. Have amendments to the Constitution been recommended by two-thirds of each branch of Congress, and adopted by three-fourths of the Legislatures of the respective States? He believed he might say with safety that it was at least a mode of taking away the Legislative powers of the Federal Government that had not before been much contemplated, and ought to be well weighed before it was recognised in the extent in which it now presented itself.

Mr. B. then proceeded to take another view of the subject, in which, he said, it would be necessary for him to request the Committee to go back with him again to the question, and take the other alternative, to see whether it would not carry them on to safer and better ground. He would begin it by the assertion, that those few words in the Constitution on this subject, were not those apt, precise, definite expressions, which irresistibly brought upon them the meaning which he had been above considering. He said it was not to disparage the instrument, to say that it had not definitely, and with precision, absolutely settled everything on which it had spoke. He had sufficient evidence to satisfy his own mind that it was not supposed by the makers of it at the time, but that some subjects were left a little ambiguous and uncertain. It was a great thing to get so many difficult subjects definitely settled at once. If they could all be agreed in, it would compact the Government. The few that were left a little unsettled might, without any great risk, be settled by practice or by amendments in the progress of the Government. He believed this subject of the rival powers of legislation and Treaty was one of them; the subject of the Militia was another, and some question respecting the Judiciary another. When he reflected on the immense difficulties and dangers of that trying occasion—the old Government prostrated, and a chance whether a new one could be agreed in—the recollection recalled to him nothing but the most joyful sensations that so many things had been so well settled, and that experience had shown there was very little difficulty or danger in settling the rest. In this part of the subject, he said, had he been earlier in the debate, he should have gone over some of the ground on which others had now gone before him. He would not

detain the House a minute by the repetition of the luminous and able discussion with which the House had been for several days instructed. Can any man, said he, after the views which have been presented to us, doubt that there is room—that there is a call for deliberation to reconcile some parts of the Constitution on this subject—to give the greatest effect to them all?

For example, it is said:

ART. I. "All Legislative power herein granted shall be vested in a Congress, consisting of a Senate and House of Representatives," i. e. every particle of law-making power in the Constitution granted shall be vested in a Congress, consisting of a Senate and House of Representatives.

ART. VI. Treaties are laws.

The power of making Treaties is a particle of law-making power, granted by the Constitution; but it is granted by article 2d to the PRESIDENT and two-thirds of the Senate.

And yet there is no doubt in these expressions. They are so perfectly clear and definite, that there is no call or even room to deliberate in commencing practice upon them.

And how, he asked, are such questions between the different constituent parts of the Government to be settled, but for each branch to deliberate with calmness and moderation in their own sphere, and come to a mutual result? It must indeed be a fearful, trembling loyalty, that should prevent so important a branch of the Government as that House from even presuming to deliberate on the very important considerations which have been addressed to them. It was not a new case, or peculiar to that House; there can be no doubt but it will be well received by the other branches of the Government, with the exception of but few individuals. The PRESIDENT had not hesitated to send back to them their laws when he thought them against the Constitution, and they had given way to his reasons. The Judges had refused to execute a law intruding upon their department; it was repealed, and they passed another on the subject.

In this place, he begged leave to take notice of some things which had been adduced in opposition to the opinions which he had expressed. A gentleman from South Carolina had produced a number of publications, and had alluded to a number of transactions by which he would make it appear that it had been allowed, that the Treaty-making power was as extensive as it is now contended for. He quoted a number of meeting and party writings, and among the rest of his authorities he was constantly expecting to hear him quote another, very common in the present times, the toasts. The gentleman from Massachusetts had produced many others: the reasons of members of the Convention, the proposed amendments of several States, &c. He was willing to allow due force to that kind of reasoning, if it has, in fact, been the common view of the subject; if it is the one that most naturally presents itself on reading that part of the Constitution, it would be a good reason for calling up all their candor and diligence on the occasion, in comparing and re-

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conciling it to the other parts of the Constitution; but it was not of sufficient force to be a ground of absolute certainty that the thing is definitely settled, and that they ought not to deliberate upon it. He thought more weight had been allowed to this turn of argument than was its due. It was not to be forgotten, that probably even in making the Constitution, and in all that had been said upon it since, there never had been till now so many persons and so much time employed at once in searching and settling this single point. It may be said to be the first solemn decision of the question. The suability of the States was not so much talked of or believed, till it was declared by the Judges to be the meaning of the Constitution; its being a new and unexpected construction, was not used as a weapon to excite irritation against the Judges; why ought it to be on this occasion? He might mention several other particulars to the same effect, but he wished as far as possible to avoid being tedious.

Mr. B. then undertook to state his own view of the subject, and what he thought ought to be done. Much, he said, depended on the words "make Treaties and supreme law of the land;" as to the words supreme law of the land, he had not much doubt for what purpose solely they were introduced. The words were satisfied, and he thought most naturally, by not suffering them to disturb the balance of the Federal Constitution, for that is not the subject which the section where these words are used is speaking of; but to consider them as giving to the Treaty-making power the same paramount authority over the laws and Constitutions of the several States, that they give at the same time to the Constitution and laws of the United States. The words appear to be introduced for the express purpose of making the Constitution, laws, and Treaties, of the United States, paramount to the Constitutions and laws of the several States, and for no other purpose; this is all that the section appears to be speaking of; it satisfies the words, is the most obvious and natural meaning, and leaves the other parts of the Constitution harmonious and undisturbed. As to the words "power to make Treaties," it was more difficult to ascertain precisely what the Constitution meant to give by them. It had been argued that from the nature of Governmental powers, the Treaty-making power must be paramount, and from the nature of contract it must be paramount. The truth is, the Treaty-making power must be what the Constitution has made it. He did not hesitate to say, that the most natural meaning to give these words, was to consider them as borrowed from former use, and to give them the meaning which they had always before given them. Gentlemen had said that nothing useful could be derived from English books and explanations on these terms. This seemed to him an unreasonable assertion. It might as well be said, that they could not use an English Dictionary to ascertain the meaning of words. In many sciences, said he, there are definite and appropriate phrases as well as definite and appropriate words; and, in fact, books which are Dictionaries of phrases,

ascertain the meaning of phrases with as much precision as Dictionaries ascertain the meaning of words. It is exceedingly useful that it should be so. When such a precise meaning is fixed to a phrase, and publicly known, it is apt to remain a long time exact, as it is frequently employed, and is very useful as a medium of certainty. Many instances of this kind might be quoted, particularly from English books on law and Government. He would observe further, these appropriate phrases had been for their certainty in many instances transferred into our Constitution, and their meaning must be manifestly sought in those sources as in a Dictionary. One remarkable instance occurred to him, and which, from the singularity of its garb, would be very discernible in the Constitution—he meant the definition of treason in the third section of the third article of the Constitution. The phrase is, levying war, adhering to enemies, giving them aid and comfort. These are the very words of the English books, which have been so critically judged that they are not capable of the least variation in their meaning on that tremendous subject; but this meaning is to be sought from those sources; he might mention several instances, but it was unnecessary. He thought the phrase, power to make Treaties, should be ascertained in the same manner; and the English meaning, as it would naturally be understood at the time of making the Constitution, should be affixed to it; that it should be considered as giving to the President and two-thirds of the Senate the same kind of power as the King of England possesses on the subject of Treaties, which it is known is in several cases subject to the control of Parliament. Here it is qualified by the powers specifically given to Congress.

But all this, said he, is answered by most violent outeries, which sound to him very bold on so new a subject: that the nation will be undone, all confidence in its engagements destroyed, and the country, without doubt, involved in a war abroad, and anarchy at home. That was an extraordinary mode of discussing a curious and perplexed question. It may be asked, why do not those things occur in England? The King, it is seen, has laid this same Treaty before Parliament; they may probably now be discussing it. Some of their Treaties which were read the other day appeared to be carried by but a small vote; suppose this should now be lost in Parliament by a small vote, what reason to apprehend more dreadful consequences to this country than to that?

He hoped, on the whole, the House would be prevailed on to go coolly into the subject; he had no doubt but their good sense and moderation would guide them safely and prevent them from working mischief or creating confusion. He hoped they would first request the papers on the subject; he had no doubt but that it would appear that this was not now as new a question to all the branches of the Government as it was to that House. It is probable it presented itself to the Ministers who made the Treaty. The English had been so much in the habit of having an article introduced into their Treaties respecting its being submitted to

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Parliament, that probably the English minister had the caution to ask our Minister, whether an article ought not to be introduced about its being submitted to Congress, and what he considered the powers of the PRESIDENT and Senate on the subject. It is very probable information on this subject will be found among the papers which it is proposed to request. Our Minister was a man of so much good sense and information, that, without doubt, he had drawn some line on that subject. Perhaps on looking at the papers they might find he had drawn it very properly, and be perfectly satisfied not to disturb it; but, that there should have been so long and formal opposition to requesting the papers and looking at the subject, he confessed, was what he had not expected.

Mr. COOPER rose to refer his colleague [Mr. HAVENS] who spoke last week, to the mode in which the laws and Constitution of the State of New York were explained away in the year 1792, so as to deprive the citizens of that State of the right of suffrage, and to inquire whether that decision was not considered by all thoughtful people as erroneous; if so, whether the present reasoning does not originate from the same mistaken notions of power over right. I think, said Mr. C., it will not be improper for the gentleman to recal to mind those observations before he decides on this important argument.

That gentleman and several others have asserted on this floor, that a Treaty was not the law of the land until it was assented to by that House; if so, it may be fair to inquire into its merits, and have the papers before them. Let them examine the matter. Surely if that principle be admitted, could not the officers of the revenue with equal propriety say to Congress your law is no law until our will is had—until we set it in motion; or, the collectors of the taxes, your law is of no validity until we take order to make the people pay their several quotas, or the people at large say, we are the essence of all law; it is with us all revenue, all appropriations of money, and all laws originate. Of what use, they may say, is your dry parchment? Although the House of Representatives may have passed it, although the Senate may have agreed to it, although the PRESIDENT may have confirmed it, and although it may have passed through each House with all the graceful forms necessary to dignify it as a law of the land; yet, unless our will is had in the premises, it has no weight. But the question is, can it be thought right for the people; can it be right for the collectors; would it be right for the officers of the revenue; or was it right for that House to hold out to their constituted authorities this sort of language? No, must be the answer. The principle is subversive of all Government. Common sense revolts at the idea. In this way the people can repeal laws by not obeying them; and, perhaps, there may be cases when they have a revolutionary right so to do; and it was in that confused state of things that Congress might repeal Treaties by not filling that middle ground they are placed in by refusing to grant appropriations; but both must be considered as in rebellion

against the Constitution of the United States. Why this new mode of explaining the Constitution? It had been understood from the school-boy to the Senator according to its true meaning. Why, to gratify party rage, shall they attempt a new explanation of this criterion of their happiness? An observation, he said, fell from one of the Representatives from Virginia in his speech of last week, which he would take the liberty to make one or two remarks on. He intimated that he stood on high ground; he felt bold from the propriety of his intentions; he cared not for the cant word of disorganizer, &c. That is right; gentlemen who attempt to remove the established bond of the Constitution, ought to be bold; they ought to prepare for such cant words; it was reasonable they should expect them; for, from ancient date, the remover of land-marks was spoken harshly of. All men, said he, must now see who are willing to be bound down by the letter of the Constitution, and who are desirous to break through all shackles. There are three causes why this Treaty is so vastly disagreeable to some of the citizens in a part of the Union. One was, it compels some of them to pay their just debts, which they contemplated evading. As to the idea of its being a good or bad Treaty, it is a mere pretence, for the same opposition was made before it appeared as afterwards. A second is, that they have been at war with the nation this compact is made with, and an improper influence a nation now struggling for liberty has over their passions as Americans has increased their prejudices against the British nation. But the third and most rational cause is, that as they are an old and powerful nation, and as America is young, and unable to meet them, they insult and misuse them on that account. He felt their insults, yet his wish was to support their neutrality. Twenty years hence, he said, their voice would have a more manly sound, and although they may feel now as men will feel then, yet it would be imprudent for them to act now as it would be proper for men to act then. A wise man is governed by reason, men of less understanding by experience; but it is the weak, indeed, that are governed by their passions or feelings, when the interest of their country is in question.

Much has been said about the British Constitution. He always understood that their charter was nothing more than long usage, or practice reduced to precedent; and from that uncertain source their present unpleasant situation may have arisen. But they had the book and page, and surely the good sense of the United States will frown into atoms the man who shall attempt to violate the sacred volume.

For his own part, he should oppose the resolution, because it interfered with the oath he had taken to support the Constitution of the United States.

With these observations he should sit down during the rest of the debate on this question, hoping the House would not so far forget themselves, and what they owe to posterity, as to

adopt a resolution so deeply tinged with usurpation of power.

Mr. HOLLAND said: It is with great diffidence I rise on this important subject, to submit some considerations to this Committee. As it has now become a Constitutional question, not with respect to the merits of the Treaty, but with respect to the Constitutional right of this House to request the Executive to furnish us with papers that related to the Treaty antecedent to its ratification.

To this it is objected that this House has no discretionary power over the Treaty, and, on that account, has nothing to do with the papers.

The question is not whether the Treaty is a good or bad Treaty, but it is whether we have a right to exercise our judgments upon it. Then, without any regard to the Treaty, we must be governed by the rational construction of the fundamental principles of Government.

To illustrate which, it may be necessary to examine what has been incident to the different kinds of Government, according to the histories of those nations governed by despotism, monarchs, or republics; and, from the Constitution of the United States as the fundamental maxims of the Republic, draw that construction that is most rational and natural.

It will also be proper to examine which of those Governments preserves the most power in the people.

First, then, of monarchy. Where has that power been placed? According to the theory of the English Government, it has been lodged in the Sovereign, for it is there expressly said (nor has it been denied on this floor) that the King is the source of all power; and it is also expressly declared that the King of Great Britain has sovereign and exclusive right to make Treaties. That, when they are made, they cannot be impeded or annulled by any existing power in the Kingdom. This is the theory of that Government. But what has been the practice? I answer, the contrary; for it ever has been that, when a Treaty was made, that the same has been submitted to the Parliament for concurrence; and Parliament, if they thought proper, admitted and sometimes annulled them, as in the Treaty of Utrecht, and sundry instances that the history of that nation affords us. The English Government, therefore, is in practice what it is not in theory. By the construction of the Constitution, as contended for, by giving uncontrollable power to twenty Senators and the PRESIDENT, our Government will be in practice what the English Government is in theory. If this doctrine had been believed that this was the true construction of the Constitution, previous and at the time of its adoption, would the people of the United States have adopted it? If they had been informed that, by this instrument, they were ceding more power to two-thirds of the Senators and PRESIDENT, than even could be practised by the King of England, with his lords spiritual and temporal, under that impression would they have ceded that power? Or, if they had been told that the House of Represen-

tatives, under this Constitution, had less power than was exercised by the House of Commons in England; that they would be less able to secure their liberties in this country against the approaches of prerogative, would they have, under that belief, accepted of this Constitution? I think, Mr. Chairman, I may venture to say, they would not.

With respect to the more absolute Government of France, where has this power been lodged? In this, as in the monarchy of England, it was, in theory, lodged in a Prince; but the theory, even in that despotic Government, never could be carried into practice. According to *Vattel*, in the Treaty made by Francis I., in the Treaty of Madrid, on account of that Treaty encroaching on the fundamentals of their Government, it was set aside. How was this done? It was not done by Parliament, for they had none; but the principal people of the kingdom met together at Cogniac and annulled it. I ask, again, Mr. Chairman, if the people of this country possess less power than the people of that despotic Government? Or do they possess less power to withstand the usurpations of the Executive, on the subject of Treaties, in their Representatives in Congress, than has ever been maintained in the cramped situation of the people of England by the House of Commons?

Why were these rights ever maintained and so scrupulously attended to by the people of those countries? It was because they considered them as the palladium of their remaining liberty—they, therefore, would not let them go.

Then, with respect to a Republic, the sovereign power is in the people. It therefore follows that whatever can be effected by the people in those countries can be done here—they being the source of power.

Then, with regard to the Constitution, it must be construed naturally and liberally in behalf of the people. Not as giving all power that can be given, but as retaining all power and natural right that ought to be retained. It would have been extremely improper to have wantonly discarded natural privilege, or ceded more power than was essential to Government; nor was any more intended to be given.

The Constitution, upon the face of it, shows that this is the case—limits are prescribed to Governmental power. Not so in the countries spoken of, yet the people exercise it. But, it is said, our Constitution has not retained this privilege, and it is the law and the testimony, sacred volume, &c. The sacredness depends upon the attention to the principles that procured its adoption; when that is contravened a violence is made upon the rights of the people. If, by any construction that can be given, these rights can be preserved, it is wise to consider it as the better opinion. But it is said to be impossible that this power has been ceded, subject to no control, to the PRESIDENT and two-thirds of the Senators present; that, whatever may be the practice in other countries, it will not apply to this; that those countries have no Constitution, and that we

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have, and must be governed by it. Unfortunate circumstance! why adopted? Was it wantonly to throw away a privilege and natural right? Certainly not, but the contrary. It was to secure natural right, and to establish a Republican form of Government.

How, then, can it be said by a gentleman from Connecticut, [Mr. SMITH,] that, as a private citizen, he might exercise his judgment; but, as a legislator, on the score of the Treaty, he would not think, although he acknowledged, that it was the duty of this Legislature to make laws to carry it into effect, but he had no discretion on the reason of the law? A gentleman from South Carolina [Mr. W. SMITH] also said, that we had no discretion; and, to prove the position, quoted the prohibitory clause, third article and section in the Constitution, which prevents legislating so far as relates to the diminution of the Judges' salary. This clause was intended to prevent the destruction of a legal right; the salary being fixed, it would be improper and unjust to diminish during the time for which he was elected. But there is a difference between the repulsive and the compulsive; the latter being incompatible with the character of a legislator, and that freedom of will incident to legislation, and that the man is the more or less a legislator in proportion to the freedom of his will, and uninterrupted exercise of his judgment. But, in the case of appropriation, so far as relates to the discharge and payment of the Judges' salary, as has been previously fixed by law, in this, as in all other cases of Legislative acts, a sound discretion should be exercised. It would be proper to examine the state of the Treasury with other external relations; and, if it should be found that the sum was impracticable in the present state of things, they most certainly could refrain. Nor would this be a destruction, but only a temporary suspension of the Judges' right, which frequently happens in exigencies. It therefore clearly follows that, in this case, discretion and judgment are at liberty, and as much unrestrained as in any other act of legislation.

In the eighth section, eighteenth clause of the Constitution, full power is given to Congress to make all laws, &c.; and in the sixth clause of the ninth article it is expressly declared, that no money shall be drawn from the Treasury but by law. Why by law? Why not by a decree of the Senate? It would have been much less expensive, being done by them, and it would have prevented the phenomenon of one hundred and four Representatives of a free people, and spare them the disagreeable dilemma of being obliged to legislate where they could not exercise will nor judgment; a situation extremely disagreeable in a private capacity to every person that has a tincture of independence; then shall it be said or believed that the Representatives of the free people of the United States can be in this situation?

Natural right has power to think and act on all subjects that present themselves to our natural or moral sense, except acting on those objects that would be accompanied with an express or implied

violence to the property and rights of others. Nor has the adoption of the Constitution taken from us this privilege. Then, with regard to this instrument, (the Treaty as it is laid before us,) is it a subject that we can exercise our mental powers upon, or is it the property or right of others? It belongs no more to the PRESIDENT and Senate than to this branch of the Government. If it is a property, it is the right of a nation, it is a property in common, and, as such, we may clearly exercise our judgment upon it, in order to discover its merits or deformity; and, if it be found valuable, perpetuate, if an incumbrance, discard it. If its merits can be known, there can be no doubt that it will obtain the support of this House and of all the people of the United States. But it is said by a gentleman from South Carolina [Mr. SMITH,] that the custom has always been to admit of the Treaties; and that no attempt had been made to prevent their operation till this solitary case, and from this infers, that this House has no power to examine its merits; that they have uniformly passed laws to carry them into effect. All this may be true; but this goes only to show that they corresponded with those Treaties. It does not show that this House have not the right or power of repulsion. There is a difference between the having the power, and the act of exercising the power to the full extent.

A gentleman from Massachusetts [Mr. SEDGWICK] has said, that he is much amazed if this power is in the House, that it was never found out until this moment; that not a man, from Georgia to Massachusetts, ever knew it before. I beg leave to inform that gentleman that he is mistaken; that he has not made himself acquainted with the understanding and judgment of, I trust, a large majority of enlightened citizens of the United States. That it was this construction that procured the adoption of the Constitution. That previous to, and at the Convention of North Carolina, this clause, which gives the Treaty-making power to the PRESIDENT and Senate, was considered by some as an exceptionable part, on account of the indefiniteness and generality of the expression. It was said, that the PRESIDENT, with two-thirds of the Senate, could make Treaties and make stipulations unfavorable to commerce. But those in favor of its adoption (of which I had the honor to be a member) said, that commercial regulations had been previously and expressly given to Congress, and to them secured. Under that conception I was in its favor; but should have been opposed to it upon the other construction. I yet think that is the true construction. In the explanation of a statute, it is proper to examine the evil and the remedy, and to reconcile the seeming inconsistency, which can be done in no other way than by this construction.

I considered that the Executive had absolute power to make peace, as by the Constitution he is declared Commander-in-Chief of all the Armies, his situation enabled him to be the best judge of the forces and of the force he had to contend with, and as secrecy was necessary to

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effecting a Treaty of Peace, that power was properly vested in him, guarded by two-thirds of the Senate. But a Treaty of Commerce presupposes an existing peace, and in those Treaties secrecy is not essential; but a competent knowledge of the produce of the respective States in all their remote situations was necessary; which would be best obtained by an association of the three branches of Government.

This is a Treaty of Commerce, and therefore has involved legislative objects. It consequently requires Legislative sanction; a contrary construction would be a violation of the Constitution and of the principles upon which it was adopted, and therefore a violation of the rights of the people.

I confess, on viewing the exception and force of the argument, that I had some doubt, that when the Government became old and corrupt, that this perversion might be attempted; but had no idea that in the course of six years it would be contended for.

A view of mutual interests excites individuals and nations to form intercourse and commercial contracts. So long as the end corresponds with the design, the firm should exist and no longer; when either or both are dissatisfied, reason would dictate a dissolution. Nor can this with individuals or nations be a just cause of quarrel or war, but often the best way to preserve peace. It is not enough for me to know that this Treaty did happen, but I wish to know the causes that produced it, which will best be known by advert- ing to the papers contemplated in the resolution.

A gentleman from Vermont, [Mr. Buck] in the commencement of this debate, has said that the Treaty was now the law of the land, after having been concurred in by two-thirds of the Senate and ratified by the President. It was subverting the first principles of our Government, and to oppose was rebellion; and more particularly as it was officially laid on the table and promulgated by the President's Proclamation. To use his language, it struck like thunder—appeared like the majesty of Heaven.

I would beg leave to observe to that gentleman, that as to the majesty of Heaven, I lack a simile, not being acquainted with the gods. But with respect to thunder, I have some knowledge of its operation; when it strikes a sensible object it destroys sensibility. If it has had that effect upon that gentleman, unless he has recovered, he is yet unfit for a legislator. I would only further observe, that if the Treaty was not the law of the land, the Proclamation did not make it so. I should not have observed on the gentleman from Vermont, but for the eulogium given by the gentleman from South Carolina, [Mr. W. SMITH] who had said, that his speech was of such dignity that an attempt to repeat it would lessen the original.

I have been told it has been a custom in this House, when persons have conspicuously discharged their duty to give them the thanks of the House, I wish to indicate to the gentleman, that he was unauthorized to communicate mine.

Another gentleman from South Carolina [Mr. HARPER] said, when this motion was first made, he thought it immaterial, but now he thinks it a violation of the rights of the Executive. How gentlemen can so suddenly change their opinions from one extreme to the other, I am at a loss to conceive. I, generally, have discovered that in all common occurrences, things present themselves (as to substance) right in the first instance; there may be some change with respect to form. Nor can I conceive any other cause than a recollection of the necessity of guards to prerogative.

I yet think it a modest and reasonable request, and in that point of view, I trust, will the President consider it. He will recollect that we are the Representatives of the people, and that we cannot discharge our duty by knowing that this Treaty did happen, but by being acquainted with the causes that produced it, whether by accident, design, or necessity. If by accident, we are not bound; if by design, and the motives corrupt, it is a nullity; fraud contaminates a private contract, according to *Vattel*; if by necessity, and that can be known, it will be a sufficient apology, and we will submit to it. Under these considerations, with those that have been offered, I am conclusively in favor of the resolution.

Mr. BRADBURY observed, that the most plausible reason that he had heard in support of the resolution under the consideration of the Committee, resulted from a principle advanced by a member from Pennsylvania, who spoke upon the subject last week. The principle was this; that where any articles of a Treaty were repugnant to prior existing acts of Congress, those acts must first be repealed by Congress before such Treaty can become the law of the land; and it was said some of the articles of the British Treaty were of this nature. He would not stay to examine the truth of the fact, for admitting it to be true, he altogether denied the principle; but yet he acknowledged that if it could be made out, it would afford the best reason yet given for calling for the papers. If their concurrence was necessary to give existence or legality to the Treaty, he saw not why they ought not to be favored with the papers as well as the Senate. But he asserted, and would endeavor to prove, that the Treaty has already a legal existence; that it is now the law of the land; and that, therefore, no act of Congress is, or can be, necessary to make it so; and, therefore, that House could have no need of the papers, nor any right to call for them on that ground.

That the Treaty had already become the law of the land, and that no Legislative act of Congress was necessary to make it so, he argued wholly from the Constitution itself, by which alone the question must at last be determined.

That instrument expressly declares, that all Treaties made under the authority of the United States shall be the supreme law of the land. He laid no stress upon the word supreme, admitting for argument sake, that the supremacy ascribed to the Constitution and laws, and Treaties made under it, meant a supremacy over the Consti-

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tution and laws of individual States.* All he asked to be granted him, and which he thought could not be denied, was that a Treaty made under the authority of the United States was the law of the land. If so, then all that needed to be proved was, that a Treaty made by the PRESIDENT, with the advice and consent of two-thirds of the Senate, was a Treaty made under the authority of the United States. And to prove that, he needed only to mention another clause in the Constitution, which expressly declares that the PRESIDENT, with such advice and consent, shall have the power to make Treaties.

If then the United States, by their Constitution, have authorized the PRESIDENT, with such advice and consent, to make a Treaty, and if he, with such advice and consent, has in fact made one with Great Britain, then that Treaty is made under the authority of the United States, and if so, then it is the law of the land.† This reasoning appeared to him to be plain and conclusive. The consequence could not be denied or evaded. If so, the principle asserted by the gentleman from Pennsylvania must fall to the ground. The Constitution neither expresses nor countenances such a principle. If it had intended that a Legislative act in that case should be necessary to complete the contract, it would have expressed that intention by an express proviso; for it is a case that must often happen in making of Treaties, and which must have been contemplated when the Constitution was made. Instead of which the Constitution declares, that Treaties, all Treaties, without exception or limitation, made under the authority of the United States, (and he had proved that Treaty to be so made,) shall be the law of the land; but this principle teaches and asserts, that they shall not be the law of the land, although so made, until sanctioned by an act of the Legislature. It was not possible to reconcile the doctrine with the Constitution; they were contradictory in fact as well as in terms. He added, that if a Treaty was the law of the land, it must necessarily, upon its becoming so, repeal and annul all previous acts and laws repug-

* Though this be admitted here, for argument sake, yet it is easy to show that the declaration in the Constitution, "This Constitution and the Laws of the United States, which shall be made in pursuance thereof; and all Treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land," is to be considered as a declaration of the supremacy of the Constitution, and the laws made under it, while in force, and of all Treaties made or to be made under the authority of the United States, as well over the general Federal Government, as over the Constitution and laws of the individual States. The meaning is, that they shall all be supreme, not only over the General Government, of which there could be no room to doubt, though not expressed, but also over the Constitution and laws of every State in the Union, of which there might have been some pretence to doubt, had it not been expressed.

† The words, "made under the authority of the United States," were evidently chosen instead of the words "made by the President, with the advice and consent of the Senate," because they were to refer to Treaties then already made, as well as to such as should be thereafter made, the former not having been made by the President, but by Congress, but both might truly be said to be made under the authority of the United States. There is no color for the assertion made by Mr. Gallatin, that they were used to express or imply the idea that "a Treaty clashing in any of its provisions with the express powers of Congress, would not, until it so far should have obtained the sanction of Congress, be a Treaty made under the authority of the United States."

nant to it: here the maxim of law strictly applies, *leges posteriores priores contrarius abrogant*. If it did not, it could not be the law of the land; for, if former acts repugnant to it were still in force, they must still necessarily be superior to it, and prevent its operation, and a law that cannot operate is no law.

It was acknowledged by the same gentleman, that an act of Congress could not repeal a Treaty, because it was a contract made with another party. Nor, said that gentleman, can a Treaty repeal a law, because Congress made it, and their consent is necessary to repeal what they have made. But he denied the consequence. It does not follow that an act of Congress is necessary to repeal a law, because they made it. The Constitution may, without absurdity, authorize another distinct power to repeal an act of Congress; and it is still a question of fact whether they had or not. He contended that they had in the case of a Treaty.

To prove his proposition, that gentleman had observed, "That in the first section of the Constitution, all Legislative power therein mentioned was given to Congress; yet in the last section but one the Constitution says, Treaties shall be the supreme law of the land, though made by the PRESIDENT and Senate. A Legislative power is thus given them after all Legislative power was vested in Congress, as if there were two Legislative powers. How were these powers to be reconciled?" He answered, the latter particular power was an exception to the former general power. If a Treaty is a law, then the making it is a Legislative act, by what power soever made, call it Executive, or what you please. If a general unlimited power of legislation be given to Congress, and afterwards a particular power to legislate in a particular case is given to the PRESIDENT, it must operate as an exception to the general power; this will reconcile the two powers.

But it is said, if this be the case, then the Executive may grasp all Legislative power, and repeal all acts of Congress, by making an insignificant Indian tribe a party to a Treaty. He answered, that the Supreme Executive must be very weak as well as wicked, to make use of an Indian Treaty as an instrument to repeal all acts of Congress. What consideration could be held forth by an insignificant Indian tribe as an equivalent for so great a sacrifice? The fraud must appear on the face of the Treaty, and would defeat his intentions. This Treaty-making power given to the Supreme Executive by the Constitution, was, he acknowledged, a very large and important power; but no argument could be drawn against its existence from the possibility of its being abused. It was fully considered when the Constitution was made, that the Treaty power was a great and important power, and the giving it to the Supreme Executive without defining or limiting it, was one great objection to the Constitution. But it was then justly observed, and more especially in the Debates of the Virginia Convention, that it was a power that could not

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well be placed in Congress nor anywhere else, so well as in the Supreme Executive; and that, in its nature, it could not be limited, except perhaps that it ought not to extend to the dismemberment of the empire. This last sentiment is ascribed to a learned and respectable character, who was now a member of that House; but, in the present debate that gentleman had declared, that he now hesitated not to say, that they ought not to admit the Treaty-making power to be unlimited. How this could be reconciled with his former sentiment, if it were rightly ascribed to him, he was unable to say. He presumed the gentleman had altered his opinion.

The fatal consequences which might flow from the abuse of this power, have been painted by the same gentleman in strong colors; but those consequences were considered as possible when the Constitution was formed; notwithstanding which, it was judged necessary to lodge this power in the Supreme Executive, without attempting to limit it as to its object. And it cannot be limited by anything but the Constitution; no laws inconsistent with that can be passed, either by the Treaty or Legislative power. And the only other checks he could find on this power of the Supreme Executive in the Constitution, were the requiring the advice and consent of two-thirds of the Senate; and impeachments against both, for abuse of power, vested in that House.

He nowhere read in the Constitution that any act of Congress, in any possible case, was necessary to make a Treaty, so as that without it such Treaty could not be the law of the land. He nowhere read that prior acts of Congress repugnant to a Treaty must first be repealed before a Treaty could be a law.

But, says the gentleman from Pennsylvania, the same Treaty power is given to the King by the Constitution and laws of England, that is given to the PRESIDENT by our Constitution, and yet the Parliament have the power there which he contends for in favor of Congress here; that is, they must repeal prior laws repugnant to a new Treaty, before it can be the law of the land; and why is not an act of Congress, it is asked, necessary for the same purpose, in a similar case here? He would answer, because our Constitution is different from the British in this respect: it declares that a Treaty made under the authority of the United States, (and he had shown that a Treaty made by the PRESIDENT, as aforesaid, was made under such authority,) is the law of the land, and if it is a law, nothing further can be requisite to make it so. There was no such declaration in the Constitution and laws of England.

There was no arguing from the power of Parliament to the power of Congress. The Parliament must have controlled this Treaty power of the King, and stripped him of his prerogative, by use and custom. There had been in England a constant struggle between power and privilege; the prerogatives of the King were not founded in the grant of the people; they were founded on force, on the right of conquest; whatever there-

fore, was gained from the King by the Commons, was considered as so much gained by the people from an adverse power.

If the PRESIDENT were an hereditary monarch, deriving his power from his predecessors by descent, a power originally founded in conquest, Congress would do well to get as much of it out of his hands as they could. It would here be, as it was there, a struggle between prerogative and privilege, it would be the people against the King. But as this was not the case, and as Congress never had in fact assumed and exercised the power of confirming by an act of theirs, Treaties made by the PRESIDENT, this argument from analogy wholly failed.

Suppose the Parliament of Great Britain should pass a law, expressly delegating the Treaty-making power to the King, with the advice and consent of two-thirds of his Privy Council, and should declare in the act, that a Treaty made under such authority, should be the supreme law of the land. They claim a right to make such a law, for Judge *Blackstone* affirms, that the denial of a power in every Government, even to alter every part of its Constitution, is the height of political absurdity; and in England, he expressly ascribes this power to Parliament.

What would be the effect of such an act of Parliament? Would not a Treaty made under it be clearly the law of England? and would not all acts of Parliament, prior and repugnant to it, be repealed by it? He was clearly of opinion they would; and this clause, he said, was inserted in the American Constitution, probably to guard against that very construction which is now endeavored to be put upon the Treaty power; on purpose to cut off all pretence of a power in Congress to control a Treaty, by refusing to repeal any prior laws that might stand in the way of it.

But, said the same gentleman, shall a British House of Commons have this right of controlling the Treaty-making power, and shall it be denied to the Representatives of a free people? He answered, the PRESIDENT and Senate of the United States were as much the Representatives of a free people as that House was; they were as truly, though not so immediately, chosen by the people as they were. The people distributed their powers as they pleased. The PRESIDENT, said he, represents the people as their executive agent, and is possessed of all executive power, and the power of making Treaties. The true question, then was, shall one constituted representative authority usurp the power and control the acts assigned by the Constitution to another representative authority of the same free people? They certainly ought not. If they should attempt it, it would be opposing one authority of the people to another. It would be dividing a free people against itself. But he hoped he had said enough to show the unsoundness of that principle, and fully to establish what he first undertook to prove, that the Treaty was already completed; that it was already the law of the land; and that, it did, by its own force, repeal all prior laws, if there were any standing in the way of it; and if so, they

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could have no need of the papers to assist them in making it a law. It had also been laid by the King before his Parliament, and he supposed the necessary appropriations had been made to carry it into effect. He did not know that any other Parliamentary provision was necessary.

But it may be said, that it is fit and proper that they should call for the papers mentioned in the resolution, even if the Treaty were law, because appropriations by act of Congress would be necessary to carry it into effect, and they ought to have the papers to judge whether it be fit for them to make those appropriations.

He answered, whether that be fit or not, in his opinion, must depend wholly upon the Treaty or law itself, and upon nothing out of it. It was like all other laws requiring appropriations, in making which they must be governed by a sound and legal discretion, and that discretion must be governed by the instrument itself.

Even if a question should arise, and be proper for the discussion of that House, on the constitutionality of the Treaty, yet that question must be decided by the Treaty itself, and by nothing else; and there could be no need of any papers for that purpose. If general information were the object, to allay the public sensibility, he should think the better way would be to request the PRESIDENT to publish the papers in all the newspapers throughout the United States. But he believed he must be considered as the best judge in that matter. He would only add, that the correspondence between their Envoy and the British Minister was, in its nature, secret and confidential. It was communicated to the Senate because they were a part of the Treaty-making power, which the House was not; but even to them it was communicated in confidence. A request to the PRESIDENT, said he, to communicate these papers, amounts to a requirement; but there can be no right to require where there is no obligation to obey.

The request may place the PRESIDENT in a disagreeable situation. He is undoubtedly disposed to gratify the House in every request as far as his duty will permit; but where there is so much doubt, respecting his duty in this case, he hoped they would never reduce him to the disagreeable alternative, either by the violation of what he might esteem his duty, to gratify the House, or by observing it, to give offence.

The great and only question, after all, he conceived, would be upon the nature and extent of their discretion in making the appropriations necessary to carry the Treaty into effect. They must, upon a view of the Treaty, determine whether they will make such appropriation or not; and, in determining that question, they must, as he had before observed, exercise sound, legal discretion. If it be a law of the land, as he had endeavored to prove it was, they should exercise the same discretion as they do in passing all other appropriation laws.

He was ready, for his own part, to admit that a Treaty, though made according to all the forms of the Constitution, might be so bad, so pernicious

to the interests and rights of the people, as to justify that House in refusing to lend their aid towards carrying it into effect, so pernicious as to justify the Legislature in declaring by law that they would not fulfil nor be bound by it. If any future PRESIDENT and Senate should become so corrupt and wicked, as to form an alliance by Treaty with a foreign nation at war, and contract to become a party to such war, and to furnish such nation with a large body of troops, to be transported across the Atlantic, a case that had been put, he should think that such a Treaty, made against the general sense of the people, and manifestly against the public interest, would be an abuse of power, and one of those extraordinary cases that might justify the Legislature in refusing to carry it into effect. But cases of this kind are not to be supposed, and cannot be easily defined; nor is there any necessity of attempting to ascertain the extent or limits of the discretionary power of the House with respect to such cases.

It was sufficient to observe, in general, that as, by Treaty, the honor and public faith of a nation were pledged and at stake, and that, as its character and reputation depended so much upon good faith, and the due observance of public engagements with other Powers, it must be a very extraordinary case, indeed, that could justify a violation of such an engagement. Such a case, he trusted, was not the present. But he would not then trouble the Committee with any further observations on that point, because he did not conceive that it had any necessary relation to the resolution before the Committee.

He confessed he was very sorry this resolution had not been either postponed or withdrawn. It had carried them into a wide field of controversy, and led into a premature and lengthy discussion of important questions, upon an important subject, which would not be decided by the discussion, but still lie open to debate, which ever way the question upon the resolution might be decided. He hoped, however, some light would be thrown upon the main subject by the present debate, and if so, their time and labor would not be entirely lost.

Mr. RUTHERFORD.—I beg leave to make a few observations, and I briefly declare that I am neither in the temper of picking or breaking locks, nor of blind or passive obedience. The majesty of this great people justly entitles them to all possible publicity; more they do not desire, nor do their Representatives expect or desire more. Therefore, it is with much concern I discover good patriots alarmed, and deceiving themselves into sophistries, by considering this great subject as finally decided upon, and completely finished, while they entertain fears for the Federal compact; fears, though unfounded, that originate in a very laudable sentiment. But where is the man, possessing moderate abilities and a love for his country, that will not readily allow the Union (as the jolly sailors term it) to be the sheet-anchor of these States; and that the great family cannot divide and yet stand? a circumstance, indeed, which would be pleasing to such as view us with

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malignant eyes. What is intended by the resolution before you? Mere information respecting the important business of the Treaty in question, and expressed in terms so replete with due respect to that generous patriot—submitting all to his caution, his great prudence, and good sense—that I trust, when gentlemen recur to their own minds, every doubt will vanish. I am well aware of the warm patriotism of gentlemen, and it would therefore be indelicate to warn them religiously against everything that may be construed as a spirit of party. No violence or indelicacy is meant, in the least, against the PRESIDENT or the Senate. All consider the PRESIDENT with lively, grateful, and generous sensibility. No change in the Federal compact is here intended, till the sovereign people shall deem it necessary deliberately and constitutionally so to do; and, therefore, arguments on that head are fallacious, to say the least. The Treaty, when it becomes the subject of debate, is to be considered with great moderation, on Constitutional ground, and under the auspices of justice and right reason. The matter is, nevertheless, serious, weighty, and very important; involving no less than the sovereign rights of a virtuous, great, and rising people, who, under Divine favor, have triumphed for their fair and generous patriot partners, their tender children, and all posterity. None, I trust, will contend, before the people and all the observing world, that this branch of the great National Council have not complete control over the commerce, naturalization, &c., of the United States. Much stress has been laid on the patriotism of the PRESIDENT, which makes it necessary for me to reply, lest I am taken for one uninformed. I have had the honor of the PRESIDENT'S acquaintance well nigh, or quite, forty-four years, and he has supported every character with merit, dignity, and unwearied attention. I have acted with him on trying occasions, sometimes equal, oftentimes in a subordinate sphere; and though senior in point of years, yet I uniformly looked up to him as a parent, my head, and my guide; yet I am independent of the PRESIDENT—an unchangeable friendship only excepted. My principles I shall avow without fear or shame, and I am conscious they are not unpleasing to that honest man, who will, I am well assured, come forward with his wonted purity, (though his task has been very arduous,) and will do what is prudent, right, and necessary, and no more. Why did this our common parent, the dignified servant of the people, submit his Treaty to these his fellow-servants? Surely, to obtain their aid in this great national concern. He is not governed by light rules of action. Why then hesitate or tremble? Are we not the legitimate Representatives of a magnanimous people, who desire nothing but equal justice, and therefore really have nothing to dread in contending with becoming firmness in support of their just rights. I did not intend to touch the merits of the Treaty, nor shall I now enlarge, though a case presents itself to my mind, which seems to me to be in point. We will suppose that the immortal FRANKLIN, and other patriots, had been managed out of the American

independence in the Treaty of 1783, after torrents of heroic blood had been spilled on the cold earth, so much treasure lavished, and a horrid war, with all its concomitants, had existed eight years. Had such been the case, would not the same brave people, though small in number, sore and wearied, have rushed again to arms with one voice? An answer is unnecessary. One word more, which is submitted to candor: Is not equality and mutual benefits the great basis of justice? Was this Treaty obtained on this equal ground? This also requires no reply. Then, why should the American people, who wish not to interfere with European politics, further than prudence and the warmest calls of gratitude dictate, prostrate themselves to obtain a losing commerce? And shall they dread being dragooned into this losing trade? No, never, I hope and trust. This same commerce is a pretty thing to a few individuals, indeed it is mirth and gladness to such, while it is a slow though certain political death to the common interest. Though I highly regard that people, I would not have the American people imploring, as a boon, to be the painful, adventurous collectors for that people; and after obtaining treasure from other nations, cast it into their coffers, and at the feet of their merchants. Surely the Government of that country are too wise, magnanimous, and just, to attempt forcing this losing commerce. I shall not dwell on the futility of such a project, and only observe, that it would divert the present current of commerce, and of course it would never fall again into the same channel; especially as the people of these States neither wish nor desire anything repugnant to reason, justice, and good neighborhood. Have the terms of the Treaty of 1783 been observed with good faith? I shall not reply. The field is wide, much might be said; and when the Treaty is the subject, I shall be more full, if opportunity presents.

The Committee rose, and had leave to sit again.

MARCH 15.—In Committee of the Whole on Mr. LIVINGSTON'S resolutions.

MR. PAGE spoke as follows: I confess, sir, that I had wished that this House, instead of asking the PRESIDENT for information respecting the negotiation and ratification of the Treaty, at this late day of its session, had given him, as soon as possible after its meeting, fully their opinions, and that of their constituents, respecting the Treaty itself. But, as time has been afforded for deliberation, and the House has waited most patiently and respectfully till the PRESIDENT could "place the subject before them," according to his promise in his Address to Congress, I think they have shown a spirit of moderation which deserves credit. The friends of the Treaty cannot complain that it has been hastily and rudely attacked, and should not object to the request which is proposed to be made to the PRESIDENT, to furnish a statement of facts which, from what has been said elsewhere, may be supposed sufficient to silence the most clamorous opposers of the Treaty. I have been astonished, therefore, to find that several members have most strenuously opposed the application to the PRESIDENT, as an insult to him; as useless and

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unconstitutional, unless intended as the foundation of an impeachment of him, of his Envoy, or of the twenty Senators; and, lastly, as founded on a mistaken supposition, that the Treaty is unconstitutional. In reply, sir, to these objections, I remark, that the idea of its being an insult to the PRESIDENT must be founded on a mistaken opinion of the Constitutional powers of the PRESIDENT and of the House of Representatives, and of the relation the PRESIDENT and Representatives have to each other, under the Constitution of the United States; for unhappily the ideas which some members have adopted, respecting the authority of our Executive, are derived from a recollection of what was the Executive authority in the Government under which we once lived, and of what they have read in books written to support that Government. But there cannot be a greater error than to adopt these ideas; for the Executive authority of the United States, flowing from the people, the PRESIDENT, or person invested with that authority, elected by them, at short stated periods, allowed only a limited negative on the laws of Congress, for which negative too he is to give reasons, which, if not satisfactory to two-thirds of both Houses, are to be disregarded, and the law is to be valid without his assent; restrained from creating offices, giving salaries, or making war, and bound to give account of the state of the Union to Congress, and moreover impeachable by the House of Representatives, and triable by the Senate,—cannot be compared to one of those monarchs who hold their kingdoms and subjects by hereditary right; to whom all property and power originally are supposed to belong; from whom all honor and authority flow; who can declare war and make peace, and to sanction whose acts of sovereignty it has been thought prudent to affirm that they can do no wrong: I say, sir, that there can be no resemblance between such an awe-commanding being, and our fellow-citizen, the PRESIDENT OF THE UNITED STATES; and that it could be no insult to him, to ask him for information respecting an important transaction, in which his constituents and this House are deeply interested; for such requests are made even to the British King. If the Constitution requires that the PRESIDENT shall give an account of the state of the Union to Congress unasked, it should not be said that it is unconstitutional for this House to ask for information; especially as it is acknowledged, by the very objection itself, that such information may be demanded, if it be intended as the foundation of an impeachment; and if it is confessed that it may be useful in case of an impeachment, it must be a contradiction to say, that it is useless to call for it; and especially as, independent of an intention to make this use of it, we have been told that it may silence clamors against the Treaty. The application, therefore, to the PRESIDENT, as proposed in the resolution, is neither an insult to him, nor useless, nor unconstitutional; but, on the contrary, is sufficiently decent, may be useful, and is perfectly within the spirit, and, I may say, the letter of the Constitution, should it be found necessary to apply it to an impeachment. But we have been told

that the Treaty being Constitutional, and the Treaty-making power out of the reach of this House, we have nothing to do with any information respecting the Treaty, and that the PRESIDENT having issued his proclamation declaring the Treaty ratified, it is now the supreme law of the land, and it is rebellion to oppose it. As to the constitutionality of the Treaty, I did think that when that subject should be brought before the Committee of the Whole on the state of the Union, it would be the only proper time to examine it; but, as it has been forced upon the present Committee, I will take the liberty which has been used by others, and show what I think at present respecting it.

I think that the Treaty is Constitutional, as far as relates to the powers of the contracting parties to make Treaties; and is Constitutional and valid, also, as far as relates to that part of it which gives it the name of a Treaty of Amity, and which might be in a separate and distinct Treaty by itself; for the PRESIDENT, by and with the advice and consent of two-thirds of the Senators present, has an undoubted authority, under the express words in the first article of the Constitution, to make Treaties. And I have no doubt that the Treaties which were in the view of the framers of that article, must have been principally Treaties of Peace, of Amity, of Neutrality, or of Alliance. This is the more probable, as the first and principal Treaties in which nations were concerned, were Treaties of Peace, or Treaties to secure the blessings of peace; and it is certain that the Treaty of Peace with Great Britain was the very Treaty which gave rise to the declaration of the Constitution, that all Treaties made and to be made by the authority of the United States shall be the supreme law of the land; for the Treaty of Peace with Great Britain was said to be in a state of inexecution on account of an obstruction thrown in the way by the laws of certain States. This article, therefore, was intended to remove all obstacles, which had arisen or might arise from State Legislatures, and might, I will here remark, as easily have been extended to remove all obstructions from the General Legislature by adding to the words “any Constitution or law of the States;” these words, “or the Constitution or laws of the United States notwithstanding.” The power to make Treaties of Commerce and Navigation, I humbly conceive, could scarcely be within the view and design of the Convention, at least not as a primary object, when they formed the articles respecting Treaties; because they knew, that the extent, situation, population, and productions of the United States, were such as would command them a sufficient share of the commerce of the world, without the aid of commercial Treaties. They knew that almost all Europe stood in need of their productions, and that Great Britain and her islands could scarcely exist without them; they knew more, they knew this, sir, that the almost universal belief of their constituents, that giving a power to Congress to regulate commerce, which would answer every purpose of Commercial Treaties, gave existence to the very powers under which they were act-

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ing at the moment they framed that article.* This mode of regulating commerce was favored by the opinion of the people, who celebrated the adoption of the Constitution with so much exultation and expensive parade in the great commercial cities of the United States. They had no doubt that the new Congress would use the power with which it was invested, so as to oblige Great Britain to open her ports to them in the West Indies, and to put their trade with them upon a more equitable and stable footing. Indeed, sir, the people thought, as associations not to import certain articles from Great Britain, entered into by them when they were poor helpless Colonists, with hal-

* APRIL 30, 1784.—Congress assembled—present eleven States. Congress took into consideration the report of a committee consisting of Messrs. GERRY, READ, WILLIAMSON, CHASE, and JEFFERSON, to whom were referred sundry letters and papers relative to commercial matters, and the following paragraph being under debate: "That it be recommended to the Legislatures of the several States, to vest the United States in Congress assembled, for the term of fifteen years, with a power to prohibit any goods, wares, or merchandise, from being imported into any of the States, except in vessels belonging to, and navigated by citizens of the United States, or the subjects of foreign Powers with whom the United States may have Treaties of Commerce;"

A motion was made by Mr. HOWELL, seconded by Mr. ELLERY, to postpone the consideration thereof, in order to take up the following: "That it be recommended to the Legislatures of the several States, to restrain, by imposts or prohibition, any goods, wares, or merchandise, from being imported into them respectively, except in vessels belonging to, and navigated by, citizens of the United States, or the subjects of foreign Powers with whom the United States may have Treaties of Commerce, or the subjects of such foreign Powers as may admit of reciprocity in their trade with the citizens of those States. That it be recommended to the Legislatures of the several States, to prohibit the subjects of any foreign State, Kingdom, or Empire, from importing into them respectively, any goods, wares, or merchandise, unless such as are the produce or manufacture of the State, Kingdom, or Empire, whose subjects they are." And on the question to postpone, for the purpose above mentioned, the yeas and nays being required by Mr. ELLERY, it passed in the negative. The report being amended, was agreed to, as follows:

The trust reposed in Congress, renders it their duty to be attentive to the conduct of foreign nations, and to prevent or restrain, as far as may be, all such proceedings as might prove injurious to the United States. The situation of commerce at this time claims the attention of the several States, and few objects of greater importance can present themselves to their notice. The fortune of every citizen is interested in the success thereof; for it is the constant source of wealth and incentive to industry; and the value of our produce and our land must ever rise or fall in proportion to the prosperous or adverse state of trade.

Already has Great Britain adopted regulations destructive of our commerce with her West India Islands. There was reason to expect that measures so unequal, and so little calculated to promote mercantile intercourse, would not be persevered in by an enlightened nation; but these measures are growing into a system. It would be the duty of Congress, as it is their wish, to meet the attempts of Great Britain with similar restrictions on her commerce; but their powers on this head are not explicit, and the propositions made by the several States, render it necessary to take the general sense of the Union on this subject. Unless the United States in Congress assembled shall be vested with powers competent to the protection of commerce, they can never command reciprocal advantages in trade; and without these, our foreign commerce must decline, and eventually be annihilated. Hence, it is necessary that the States should be explicit, and fix on some effectual mode by which foreign commerce, not founded on principles of equality, may be restrained. That the United States may be enabled to secure such terms, they have *RESOLVED*, That it be, and it hereby is, recommended to the Legislatures of the several States to vest the United States in Congress assembled, for the term of fifteen years, with power to prohibit any goods, wares, or merchandise, from being imported into, or exported from, any of the States, in vessels belonging to, or navigated by, the subjects of any Power with whom the States shall not have formed Treaties of commerce. *RESOLVED*, That it be, and it hereby is, recommended to the Legislatures of the several States to vest in the United States in Congress assembled, for the term of fifteen years, with the power of prohibiting the subjects of any foreign State, Kingdom, or Empire, unless authorized by Treaty, from importing into the United States any goods, wares, or merchandise, which are not the produce or manufacture of the dominions of the Sovereign whose subjects they are.

ters about their necks, repealed the Stamp act that acts of Congress regulating commerce, so as to retaliate on Great Britain, would at least prevent the enacting of the law by which the British King was authorized to regulate the commerce of the U. States with Great Britain and her Islands.

I acknowledge, sir, that whenever a Treaty is to be made, the PRESIDENT and Senate are the proper agents to make it. I think it an excellence in our Constitution that the PRESIDENT and Senate, though not allowed to declare war, have authority to put a stop to its horrors. This is a wise provision against the injury which the pride and ambition of the larger States might do to the smaller, by continuing a war. But I cannot conceive that when Congress is authorized to make all laws necessary and proper to carry into effect all the powers granted by the Constitution, the Treaty-making power as well as others, and are to provide for the general welfare, which is not confided to the PRESIDENT and Senate, nor can be intrusted to them alone by the people upon any principle which has ever had weight in the formation of a Republican Government, I cannot conceive, I say, that as this is the case, and the House of Representatives is composed of members proportioned to a certain ratio of the number of persons to be represented, and has the sole right to originate money bills, how it can possibly be supposed that the PRESIDENT and Senate, without their concurrence, can make regulations of commerce, which may be injurious to the general welfare, ruinous to the commerce of certain, and even the largest, States; and by a Treaty, too, which may, moreover, deprive that House, which, by the supposition of those who have defended the Treaty is at least a Committee of Ways and Means, (and, indeed, nothing more) of the resources of revenue to which, by the Constitution, they might have recourse.

Sir, the supposition that the PRESIDENT and Senate can make such a Treaty as the one before us, under the authority of the Constitution, is, to my mind, the most inconsistent and extravagant that I ever heard or read of; and, if true, the most positive proof of the absurdity of the Constitution, and of the propriety and necessity of its immediate alteration. But, sir, I think the Constitution is capable of a construction which will reconcile it, not only to reason, but to true Republican principles. The PRESIDENT and Senate can guard the smaller States against the encroachments of the larger; they can moderate the mistaken zeal of the popular branch of the Legislature; they can prevent, as they have done, or as they supposed they had done, a rash vote of this House from taking effect; they may negotiate Treaties of Amity and Neutrality, and of Commerce and Navigation, with the previous or subsequent consent of Congress; but, surely, sir, it does not follow, that they can take away from this House, and from a future Congress, a right to express their will, and the will of the United States, in a law; nor that they can, instead of securing the rights of neutrality with all the belligerent Powers, sacrifice those rights in favor of one of those Powers, and provoke another to

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make war on the United States. These are powers which they cannot possess, and, indeed, which the Constitution neither gives nor can give, because it would be destructive of itself and of its original intention. But it is said the words are general. It is true they are so; but it has been well replied, that, although they are general, there are other expressions which, giving specific powers to the House of Representatives, to Congress, to the PRESIDENT, and to the Judiciary, must, upon the well-known principles of construction, be looked upon as a reservation and exception out of the general grant of power to make Treaties, given to the PRESIDENT and Senate.

No rule of construction is more universally known and established in explaining any Constitution, law, contract, or Treaty than this: that the whole must be taken together, and whatever seeming contradiction may appear in different parts, those parts must be construed so, if possible, as to be consistent with each other, and with the whole; and by no means so as to contradict the general tenor and design of the whole instrument; for it is absurd to suppose that contradictions or even unmeaning provisions could be designedly inserted in such instruments of writing. The Constitution has defined the powers of the different branches of Government. To the Executive it has given a power to make Treaties, to pardon, in certain cases, and to execute the laws; to Congress, a right to lay and collect taxes, duties, impost, and excise; to provide for the common defence and general welfare of the United States; to regulate commerce with foreign nations; to establish one uniform rule of naturalization throughout the States; to constitute tribunals inferior to the Supreme Court; to define and punish piracies and felonies committed on the high seas, and offences against the Law of Nations; to declare war, grant letters of marque and reprisal; to establish offices and salaries of officers, and to appropriate money, &c., and to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department thereof. To the Judiciary, it gives a right to judge of all cases in law or equity arising under the Constitution, the laws of the United States, and Treaties made, or which shall be made, under their authority, &c. These powers are perfectly distinct from each other, and may be all exercised without any clashing or interference. For the PRESIDENT and Senate may make Treaties of Peace, when Congress is not in session, or if in session, should Congress be inattentive to the distresses of war, they may make Treaties of Neutrality and Alliance, but not such Treaties as shall abridge the power, or interfere with the Constitutional jurisdiction of Congress or of the Judiciary.

The Judges may decide on cases arising under Treaties made according to the Constitution, and Congress may and ought to pass laws to carry into effect all such Treaties, provided they are not inconsistent with the general welfare, for which it is their Constitutional duty to provide, and which

is not confided to the PRESIDENT and Senate by the Constitution, nor can be intrusted to them alone by the people upon any principle which has ever had weight in the formation of a Republican Government. If it be said that this construction of our Constitution will render it difficult to form and ratify Treaties, it may be answered, that there may be difficulties, but there will be no absurdities; and when once those difficulties are removed there will be no danger of discontent and infraction of Treaties.

But we are told, sir, that the power given to Congress by the Constitution to regulate commerce cannot extend to that regulation which depends upon the will of a foreign nation or Government, and which can only be regulated by compact, or by the Treaty-making or pactitious Powers. Granting that this assertion be true, which, however, may be denied, as the general belief which I have alluded to, and on which the existence of the present Government was founded, seemed to contradict it; for it was almost universally believed that an act of Congress regulating the commerce of the United States with Great Britain, as had been proposed to the former Congress, or Congress under the Confederation, or as proposed to this House on the 3d of January, 1794, and well known by the name of MADISON's propositions, or as proposed by Mr. CLARK, 7th April, 1794, would have brought about a more advantageous commercial intercourse with Great Britain than any direct negotiation with the British Ministry. It was thought highly probable that the Parliament of Great Britain would (if any of these propositions had been adopted by Congress) have refused to have renewed their act, by which the trade with these United States (as if they were more degraded than Colonies) was regulated by the King's Proclamation. I say, granting, however, that assertion to be true, how does it prove, or what other assertion can prove, that Congress has not a right, under the express words of the Constitution, which declares that it shall have power to regulate commerce with foreign nations, to be a party to that compact, or to have some share, either previously or subsequently, in the Treaty-making business, when it regulates the commerce of the United States with foreign Powers?

I may agree that a Treaty is necessary to establish a commercial intercourse between two nations, to their mutual advantage and satisfaction, but I must affirm, that as that Treaty would be a commercial regulation, and as Congress is expressly empowered by the Constitution to regulate commerce, whenever such Treaty shall be made between the United States and any other nation, Congress must either direct that the negotiation be commenced upon conditions approved, or sanction the ratification of such Treaty by some act showing that the regulation of commerce, by the Treaty, was made by the authority of Congress, in conformity to the Constitution.

Besides, sir, if the PRESIDENT and Senate can regulate the commerce of the United States with one nation, they can with all nations, and if they can with all, what nation can there be with whom

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Congress can regulate commerce? This argument, therefore, must fall to the ground. We are told, however, that the Treaty-making power, from its nature, is competent to all the objects at least of the Treaty under consideration, and is not to be controlled or checked by this House. Let me examine this assertion. If this be true, sir, we find that, although the British King, from whose tyranny we revolted, cannot force upon his subjects, against the will of their Representatives, a Treaty, which, it is acknowledged, too, he has a right to make, the PRESIDENT OF THE UNITED STATES can, by his Proclamation, force upon the people who are his constituents, a Treaty which their direct Representatives wish to suspend, alter, or annul. Can this possibly be a true construction of the Treaty-making power? Surely it cannot. If it be true, then, can the PRESIDENT repeal, as he has by the Treaty, the laws of Congress, although by the Constitution he cannot negative them? He can oblige Congress to levy taxes; can withdraw impost and tonnage from their reach; prohibit the exportation of sundry articles, the produce of the United States, although the Constitution forbids, the Senate and Representatives concurring, to lay the smallest duty on the exportation of any article; he can create offices and annex salaries thereto; destroy the rights of this House; provoke war; in short, he can do any thing; but this we are sworn to deny. The absurdity of that construction, then, must be evident, and the recollection of our oaths to support the Constitution, of which we have been reminded, must force us to revolt at the thoughts of adopting such a monstrous construction of the Constitution. We are reminded also of the PRESIDENT's Proclamation. I will attend to it. I look upon it as a proper notification of the ratification of the Treaty of Amity with Great Britain, but it can have no effect on the Treaty of Commerce and Navigation, till sanctioned by the votes of Congress. The evacuation of the posts on our frontiers, held by the British, if intended in consequence of the Treaty of Amity, ought to take place, or if in conformity to the Treaty of Peace; but, if intended as a compliance with conditions annexed to the Treaty of Commerce and Navigation, good faith requires that they ought not to be evacuated until the final adjustment of the differences which may arise in the course of the discussion of the merits of that Treaty, and this with me is one reason why I wish for information from the PRESIDENT respecting the Treaty. I confess too, sir, that I wish for a full and free conference with the Senate on the important subject of the Treaty.

I wish also to know what was the imperious necessity which induced a negotiation and ratification of such a Treaty as the one before us, which has in it articles which appear so pernicious, as, from the authority of writers* on the Law of Na-

tions, and the confession of a member yesterday, might be declared null and void, and which [Treaty] is destitute of others, which our constituents hoped and expected would form an important part of the Treaty.

I will now reply to a few arguments which were thought weighty, at least they were applied so earnestly to the Representatives from Virginia, as if they were what are called *argumenta ad hominem*. We are told, sir, that Virginia had put the same construction which they now put. For the Assembly of that State had proposed certain amendments; but these amendments, it should be remembered, were intended to remove the evils which the construction those gentlemen put on the Constitution, if adopted, must produce, and would be unnecessary if that construction for which the Virginia Representatives contended should be adopted by Congress. The arguments of certain members of the General and State Conventions were also retorted on them; but, sir, the gentleman was too much agitated to do strict justice in his recitals, for I think he did not recite enough of some passages from the debates which he read; but the opinions of those gentlemen, as stated, only prove that the Constitution has ambiguities, but can never prove that it becomes this House to explain them, so as to put it into the power of the PRESIDENT and Senate, as it was well remarked by the member from Pennsylvania, to legislate by assistance of any foreign Power, without the aid of the House of Representatives, and reduce the Representatives to a mere Committee of Ways and Means. We were asked, sir, with great vehemence, by a member from Massachusetts, why there had been no objection to any Treaty which had been made till now? He enumerated, I think, several nations with whom Treaties had been made, and demanded why we objected against the Treaty with Great Britain alone? I reply to this, sir, that objections were made by Congress even to the Treaty with France, on which their political salvation depended, and two articles were altered; that complaints have been made against several Indian Treaties; that, however, if no objections had ever been made to any before, it might be said to be high time for us to make a stand, to examine into and check a little the expensive business of Treaty-making; and it may be asked, in reply to the gentleman, what other Treaty, except that with Great Britain, ever repealed acts of Congress; prohibited the exportation of the valuable commodities of the States, and at the same time obliged us to abandon our claim to the rights of neutrality, and to acquiesce in an avowed attempt to destroy our friends and only safe allies?

A Treaty pernicious to the State is null, and not obligatory. No conductor of the nation having power to make such Treaties.

The nation in itself cannot enter into engagements contrary to its indispensable obligations.

In the year 1506, the States General of the Kingdom of France, assembled at Tours, engaged Louis XII. to break the Treaty he had concluded with the Emperor Maximilian and the Archduke Philip, his son, because that Treaty was pernicious to the Kingdom. They found that neither the Treaty nor the oath that had accompanied it could oblige the King to alienate the dominions of the Crown. From the same reason, a want of power, a Treaty is absolutely null.

* Vattel, book 2d, chap. xxii. page 298.—A Treaty is valid, if there be no fault in the manner in which it was concluded; and for this purpose nothing more can be required than a sufficient power in the contracting parties, and their mutual consent sufficiently declared.

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The gentleman will pardon me, when I say, he should not have asked such questions.

I will not, on a question which involves, perhaps, the fate of the United States, as well as the political existence of this House, say any thing to provoke warmth. I will refrain, therefore, from saying any thing respecting the attempts which have been made, both within and without the doors of this House, to deter members from opposing the Treaty, and will not now repeat the harsh expressions which have escaped from some members in the course of debate, but contend for, and will use the right of freedom of speech, reminding the Committee, however, that freedom of debate should always be regulated by a sense of propriety and decency, and that a difference of opinion on questions which must be decided by voting cannot require passionate debate.

From what I have said, I think I have proved that I may vote for the resolution before the Committee, not only without insulting the PRESIDENT, but as paying all the respect to him which can be due to the PRESIDENT from an independent branch of the Legislature, the direct Representatives of his constituents; that I may vote for it as a Constitutional right of this House, when it may wish for information from the PRESIDENT respecting the state of the Union; that I may vote for it, not only as useful, but as necessary to know the true meaning and intention of certain articles in the Treaty, whether it may be proper to direct any impeachment or not. I think I have also proved that Congress has a Constitutional right to participate in the ratification of a Treaty of Commerce, if such Treaty can be called a regulation of commerce, and I think it has been amply proved by other members, that whenever money is necessary to carry any Treaty into effect, this House has a Constitutional authority to deliberate on the propriety of granting it; to call for information respecting that propriety, and to withhold a grant of money if it should be found unnecessary or improper; and this has been demonstrated not only from express words in the Constitution, but from the nature of the case, and the practice of France and England, nations which have been supposed far less independent of their Executive than the United States; and it has also been evidently proved by stating the mischiefs and absurdities which must result from a contrary supposition. For these reasons, and others which I have not time to mention, I shall vote for the resolution before the Committee.

Mr. BOURNE said he would have given a silent vote on this question, had it not have been for some strange doctrines which had been asserted, for he did not consider the question in itself as necessarily involving any Constitutional question. He regretted the debate had taken the turn it had: That before they had gone into the Committee of the Whole to whom the Treaty was referred, they were debating what Constitutional agency the House could take in relation to it. Those who opposed the passing the resolution, were charged with having given the direction to the debate, but he would ask, who had advanced the position that

the Treaty was not the law of the land till sanctioned by this House? Gentlemen in favor of the motion were certainly chargeable with this, and hence originated the Constitutional points now in discussion. The doctrine, that the formal assent of the House of Representatives was essential to the legal existence of a Treaty, struck him as a perfect novelty. That the PRESIDENT and Senate had power under the Constitution to make Treaties, and that these Treaties were the laws of the land, he had never heard denied until this debate. It was true he had heard it said, that the House might control the PRESIDENT and Senate in the exercise of this power, by refusing to carry Treaties into effect by withholding appropriations of money; but he did not expect to hear the assertion, that the ratification of the House was necessary to a Treaty, before it became the law of the land. He called the attention of the Committee to the powers of forming Treaties and Alliances, as vested in Congress under the former Confederation, which was exactly similar to that vested in the PRESIDENT and Senate under the present Constitution. Then the power of regulating commerce, laying taxes, &c., was vested in the State Legislatures. Was it ever heard that the Treaties then made under the authority of Congress were not the laws of the land? Was it ever suggested that the Treaty with France was not a law until it had the assent of the State Legislatures? Yet, according to the assertions of gentlemen, this Treaty was not of legal efficacy, without, for the States had the same power of regulating commerce, which is now vested in Congress; and, say the gentlemen, Treaties which embrace commercial regulations are not valid until Congress, who possesses the power of regulating commerce, ratify them. The fact was, the Treaty with France did embrace commercial objects, and is the law of the land without the consent of the State Legislatures.

It was under the idea that Congress had no more controlling power over Treaties, under the present Constitution, than was possessed by the State Legislatures under the Old Confederation, that the people of the State he had the honor to represent had adopted the Constitution. They conceived that the whole power as to making Treaties was vested in the PRESIDENT and Senate. They strongly objected against adopting it even under this construction, but he was sure those objections would have been much strengthened had they conceived the Treaty-making power, as described in the Constitution, subject to the constructions now put upon it.

As a Representative of a small State, he felt himself much interested in opposing the doctrine contended for. Under the former Confederation Rhode Island had an equal vote with any State in the making of Treaties. This right was thought to have been fully preserved under the present Constitution. But, if the sentiments he was combating prevailed, the small States would be deprived of one of their most essential rights; for the power of making Treaties is one of the principal rights of sovereignty, was vested in all the

States separately when they became independent was afterwards, and in the Old Confederation, vested in Congress, each State having an equal vote. It was now, in his opinion, exclusively vested in the **PRESIDENT** and Senate, in which body the great and small States had the same equality of suffrage. The opinion which he advanced was not merely the opinion of Rhode Island when the Constitution was adopted. A gentleman from Massachusetts had already shown from the debates of the Virginia Convention, that that Assembly entertained the same opinion. He was sure the opinion prevailed in the Convention of Massachusetts—he had attended their debates when this part of the Constitution was the subject of discussion. Objections were raised against it, from the indefiniteness of the power vested in the **PRESIDENT** and Senate of making Treaties. No one suggested that the House of Representatives had any control over, much less a participation in, this power. It was urged, from the nature of the power, that it ought to be placed where it was—in the **PRESIDENT** and Senate. The Senate represented the sovereignty of the States; besides, from their small numbers, they were better adapted to the exercise of this power in respect to secrecy and despatch, necessary in negotiations. Objections were raised on the ground of the possible abuses to which the power of making Treaties, unlimited and undefined as it was, might be carried. No one said the **PRESIDENT** and Senate did not possess the power, nor was it pretended that Congress had any power to control it.

He then called the attention of the Committee to the debates of the Convention of North Carolina. He had been a little surprised to hear a member from that State yesterday say he was a member of the Convention, and that it was understood that Congress could control the **PRESIDENT** and Senate in making Treaties, so far as respected commerce; the power of legislating on commercial regulations being given to Congress. What created his surprise was, that he had read the debates of the first Convention, and found no such sentiment. The gentleman had explained himself by saying there was a second Convention called in that State, of which he was a member, and there the doctrine alluded to had been advanced. The debates of this Convention Mr. B. had not seen. In order to show what were the opinions which were held in the first mentioned Convention of North Carolina, he would read extracts from the debates of that Assembly, which would be applicable to the present question, and clearly discover that all agreed that the Treaty-making power was exclusively vested in the **PRESIDENT** and Senate.

Extracts from the Debates referred to by Mr. BOURNE.

Mr. LEWIS.—I have a greater objection on this ground than that which has just been mentioned—I mean, sir, the Legislative power given to the President himself. It may be admitted by some, but not by me. He, sir, is to make Treaties which are to be the supreme law of the land. This is a Legislative power given to the President, and implies a contradic-

tion to that part which says that all Legislative power is vested in the two Houses.

Mr. SPAIGHT [a member of the Convention which formed the Constitution] answered, that it was thought better to put that power into the hands of the Senators as Representatives of the States, that thereby the interest of every State was equally attended to in the formation of Treaties, but that it was not considered as a Legislative act at all.

Mr. MACLAINE.—That Treaties were the supreme law of the land, in all countries, for the most obvious reasons; that laws or Legislative acts operated upon individuals, but that Treaties acted upon States; that, unless they were the supreme law of the land, they could have no validity at all; that the President did not act in this case as a Legislator, but rather in his Executive capacity.

Mr. LEWIS.—He still thought the President was possessed of Legislative powers, while he could make Treaties joined with the Senate.

Mr. IREDELL.—When Treaties are made they become as valid as Legislative acts. I apprehend that every act of the Government, Legislative, Executive, or Judicial, if in pursuance of a Constitutional power, is the law of the land.

Mr. PORTER.—There is a power vested in the President and Senate to make Treaties, which shall be the supreme law of the land. Which among us can call them to account? I always thought there could be no proper exercise of power without the suffrage of the people: yet the House of Representatives has no power to intermeddle with Treaties. The President and seven Senators, as nearly as I can remember, can make a Treaty, which will be of great advantage to the Northern States, and equal injury to the Southern States. They might give up the rivers and territory of the Southern States; yet in the preamble of the Constitution, they say all the people have done it. I should be glad to know what power there is of calling the President and Senate to account.

Mr. SPAIGHT answered, that, under the Confederation, two-thirds of the States might make Treaties. That, if the Senators from all the States attended when a Treaty was about to be made, two-thirds of the States would have a voice in its formation. He added, he would be glad to ask the gentleman what mode there was of calling the present Congress to account?

Mr. PORTER repeated his objection. He hoped that gentlemen would not impose on the House; that the President could make Treaties with two-thirds of the Senate; that the President, in that case, voted rather in a Legislative than an Executive capacity, which he thought impolitic.

Mr. JOHNSTON.—In my opinion, if there be any difference between the Constitution and the Confederation with respect to Treaties, the Constitution is more safe than the Confederation. We know that two members from each State have a right, by the Confederation, to give the vote of that State, and two-thirds of the States have a right also to make Treaties. By this Constitution two-thirds of the Senators cannot make Treaties without the concurrence of the President.

Mr. PORTER.—That, as Treaties were the supreme law of the land, the House of Representatives ought to have a vote in making them as well as in passing them.

Mr. J. McDOWALL.—Mr. Chairman: Permit me, sir, to make a few observations, to show how improper it is to place so much power in so few men, without any

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responsibility whatever. Let us consider what number of them is necessary to transact the most important business. Two-thirds of the members present, with the President, can make a Treaty. Fourteen of them are a quorum, two-thirds of which are ten. These ten may make Treaties and alliances. They may involve us in any difficulties and dispose of us in any manner they please. Nay, eight is a majority of a quorum, and can do every thing but make Treaties. How unsafe are we when we have no power of bringing those to an account! It is absurd to try them before their own body. Our lives and our property are in the hands of eight or nine men. Will these gentlemen intrust their rights in this manner?

MR. DAVIE.—Mr. Chairman, although Treaties are mere conventional acts between the contracting parties, yet, by the law of nations they are the supreme law of the land to their respective citizens or subjects. All civilized nations have concurred in considering them as paramount to an ordinary act of legislation. This concurrence is founded on the reciprocal convenience and solid advantages arising from it. A due observance of Treaties makes nations more friendly to each other, and is the only means of rendering less frequent those mutual hostilities which tend to depopulate and ruin contending nations. It extends and facilitates that commercial intercourse which, founded on the universal protection of private property, has in a measure made the world one nation.

The power of making Treaties has, in all countries and Governments, been placed in the Executive Departments. This has not only been grounded on the necessity and reason arising from that degree of secrecy, design, and despatch, which are always necessary in negotiations between nations, but to prevent their being impeded or carried into effect by the violence, animosity, and heat of parties, which too often infect numerous bodies. Both of these reasons preponderated in the foundation of this part of the system. It is true, sir, that the late Treaty between the United States and Great Britain has not, in some of the States, been held as the supreme law of the land. Even in this State, an act of Assembly passed to declare its validity. But no doubt that Treaty was the supreme law of the land without the sanction of the Assembly; because, by the Confederation, Congress had power to make Treaties. It was one of those original rights of sovereignty which were vested in them; and it was not the deficiency of Constitutional authority in Congress to make Treaties that produced the necessity of a law to declare their validity, but it was owing to the entire imbecility of the Confederation. On the principle of the propriety of vesting this power in the executive Department, it would seem that the whole power of making Treaties ought to be left to the President, who, being elected by the people of the United States at large, will have their general interest at heart. But that jealousy of Executive power, which has shown itself so strongly in all the American Governments, would not admit this improvement. Interest, sir, has a most powerful influence over the human mind, and is the basis on which all the transactions of mankind are built. It was mentioned before, that the extreme jealousy of the little States, and between the commercial States and the non-importing States, produced the necessity of giving an equality of suffrage to the Senate. The same causes made it indispensable to give to the Senators, as Representatives of States, the power of making, or rather ratifying, Treaties. Although it militates against every idea of just proportion, that

the little State of Rhode Island should have the same suffrage with Virginia, or the great Commonwealth of Massachusetts, yet the small States would not consent to confederate, without an equal voice in the formation of Treaties. Without the equality, they apprehended that their interest would be neglected or sacrificed in negotiations. This difficulty could not be got over. It arose from the unalterable nature of things. Every man was convinced of the inflexibility of the little States on this point. It therefore became necessary to give them an absolute equality in making Treaties.

On a due consideration of this clause, it appears that this power could not have been lodged as safely anywhere else as where it is. The honorable gentleman [Mr. McDOWALL] has spoken of a consolidation in this Government. That is a very strange inconsistency, when he points out, at the same time, the necessity of lodging the power of making Treaties with the Representatives, where the idea of a Consolidation can alone exist, and when he objects to placing it in the Senate, where the Federal principle is completely preserved. As the Senate represents the sovereignty of the States, whatever might affect the States in their political capacity ought to be left to them. This is the certain means of preventing a consolidation. How extremely absurd it is to call that disposition of power a Consolidation of the States which must to all eternity prevent it! I have only to add the principle upon which the General Convention went: That the power of making Treaties could nowhere be so safely lodged as in the President and Senate; and the extreme jealousy subsisting between some of the States would not admit of it elsewhere. If any man will examine the operation of that jealousy in his own breast, as a citizen of North Carolina, he will soon feel the inflexibility that results from it, and perhaps be induced to acknowledge the propriety of this arrangement.

MR. McDOWALL declared, that he was of the same opinion as before, and that he believed the observations which the gentleman had made on the apparent inconsistency of his remarks would have very little weight with the Committee; that, giving such extensive powers to so few men in the Senate was extremely dangerous; and that he was not the more reconciled to it from its being brought about by the inflexibility of the small, pitiful States to the North. He supposed that eight members in the Senate from these States, with the President, might do the most important acts.

MR. INDELL.—If this power be improperly vested, it is incumbent on gentlemen to tell us in what body it could be more safely and properly lodged. I believe, on a serious consideration, it will be found that it was necessary, for the reasons mentioned by the gentleman from Halifax, to vest the power in the Senate, or some other body equally representing the sovereignty of the States, and that the power, as given in the Constitution, is not likely to be attended with the evils which some gentlemen apprehend. The only real security of liberty in any country is the jealousy and circumspection of the people themselves. Let them be watchful over their rulers. Should they find a combination against their liberties, and all other methods appear to be insufficient to preserve them, they have (thank God) an ultimate remedy. That power which created the Government can destroy it. Should the Government, on trial, be found to want amendment, that amendment can be made in a regular method—in a mode prescribed by the Constitution itself. Massachusetts, South Carolina, New Hampshire, and Virginia, have all proposed amend

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ments, but they all concurred in the necessity of an immediate adoption. A constitutional mode of altering the Constitution itself is perhaps what has never been known among mankind before. We have this security, in addition to the natural watchfulness of the people, which I hope will never be found wanting. The objections I have answered deserved all possible attention; and, for my part, I shall always respect that jealousy which arises from the love of public liberty.

Mr. SPENCER.—Mr. Chairman, I think that no argument can be used to show that this power is proper. If the whole Legislative body—if the House of Representatives—do not interfere in making Treaties, I think they ought at least to have the sanction of the whole Senate.

Amendment proposed to the Constitution.

“XXIII. That no Treaties which shall be directly opposed to the existing laws of the United States, in Congress assembled, shall be valid, until such laws shall be repealed, or made conformable to such Treaty; nor shall any Treaty be valid which is contradictory to the Constitution of the United States.”

Mr. BOURNE said, he would not tire the patience of the Committee by reading any further from the debates relative to that point, but would only turn to what was said by a member who now belongs to the Supreme Court of the United States, in answer to a question asked by a member who now belongs to the Senate, whether it was not customary, in England, to submit Treaties to the approbation of Parliament.

Extracts referred to.

“Mr. BLOODWORTH desired to be informed whether Treaties were not to be submitted to the Parliament, in Great Britain, before they were valid.

“Mr. FREDELL.—A gentleman from New Hanover had asked, whether it is not the practice, in Great Britain, to submit Treaties to Parliament, before they are esteemed valid. The King has the sole authority, by the laws of that country, to make Treaties. After Treaties are made they are frequently discussed in the two Houses of Parliament, where, of late years, the most important measures of Government have been narrowly examined. It is usual to move for an Address of approbation; and such has been the complaisance of Parliament, for a long time, that this seldom has been withheld. Sometimes they pass an act in conformity to the Treaty made; but this, I believe, is not for the mere purpose of confirmation, but to make alterations in a particular system, which the change of circumstances requires. The Constitutional power of making Treaties is vested in the Crown; and the Power with whom a Treaty is made considers it as binding without any act of Parliament, unless an alteration by such is provided for in the Treaty itself; which, I believe, is sometimes the case. When the Treaty of Peace was made in 1763, it contained stipulations for the surrender of some islands to the French. The islands were given up, I believe, without any act of Parliament. The power of making Treaties is very important, and must be vested somewhere, in order to counteract the dangerous designs of other countries, and to be able to terminate a war when it is begun. Were it known that our Government was weak, two or more European Powers might combine against us. Would it not be politic to have some power in this country to obviate this danger by a Treaty? If this power was injudiciously limited, the nations where the power was possessed without restrictions would have greatly

the advantage of us in negotiations; and every one must know, according to modern policy, of what moment an advantage in negotiation is. The honorable member from Anson said, that the accumulation of all the different branches of power in the Senate would be dangerous. The experience of other countries shows that this fear is without foundation. What is the Senate of Great Britain opposed to the House of Commons, although it be composed of an hereditary nobility of vast fortunes, and entirely independent of the people? Their weight is far inferior to that of the Commons. Here is a strong instance of the accumulation of powers of the different branches of Government without producing any inconvenience. That Senate, sir, is a separate branch of the Legislature—is the great Constitutional Council of the Crown—and decides on lives and fortunes in impeachments, besides being the ultimate tribunal for trying controversies respecting private rights. Would it not appear that all these things should render them more formidable than the other House? Yet the Commons have generally been able to carry everything before them. The circumstance of their representing the great body of the people alone gives them great weight. This weight has great authority added to it, by their possessing the right (a right given to the people's Representatives in Congress) of exclusively originating money bills. The authority over money will do everything. A Government cannot be supported without money. Our Representatives may at any time compel the Senate to agree to a reasonable measure, by withholding supplies till the measure is consented to. There was a great debate in the Convention whether the Senate should have an equal power of originating money bills. It was strongly insisted by some that they should; but at length a majority thought it unadvisable, and the clause was passed as it now stands.”

It appeared clearly, Mr. BOURNE contended, from the debates he had read, that there was only one opinion in the Convention of North Carolina in relation to the Treaty-making power being vested in the President and Senate; and that Treaties made by them were the supreme law of the land, subject to no check or control from the House of Representatives. If such an idea had been entertained, would not those who in that Convention were in favor of adopting the Constitution, and who almost despaired of its being adopted, have said, in reply to those who objected against the investiture of this power in the President and Senate, “Your rights are safe; the House of Representatives must ratify commercial Treaties before they can be carried into effect.” But this was not said; on the contrary, it was said, that the power of making Treaties was exclusively vested in the President and Senate; that it was right and proper it should be so vested; and that the small States, in the Convention which formed the Constitution would not agree to give any part of the Treaty-making power to the House of Representatives. That the nature of the Treaty power showed the propriety of placing it where it was placed, the numbers of the Senate were small and most fit for this business—more so than a numerous body where faction and party might prevail; that the power of making Treaties was vested in the Senate, because it was a branch of the sovereign power. These observations had been made

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in the Convention of North Carolina. Now, he asked, if this was the construction of the Constitution when it was adopted in the several States, would it not be a trick on the small States now to construe it differently, and say that no Treaty was the law of the land until ratified by the House of Representatives? He considered that the State which he had the honor to represent would be of that opinion. He said it would be a gross violation of the Constitution to maintain that the PRESIDENT and Senate could not make Treaties without the assent of the House.

But he did not consider this principle as involved in the motion before the Committee; it was a question of expediency. The PRESIDENT was asked by it for the instructions to his Ministers and all the documents respecting the Treaty, excepting only such as related to any existing negotiation; he thought that the alteration of the original motion which was made by introducing the exception had made it more objectionable; it was saying, "send us all the papers respecting this negotiation, excepting one particular description of them, which we think you ought not to send." Nothing was left to the discretion of the PRESIDENT. Did any gentleman ever before hear of an Executive being called on for the confidential instructions which he had given his Minister in relation to a foreign negotiation; for the correspondence between himself and his Minister, and for that which passed between the two Ministers representing the negotiating parties? Was it not natural for gentlemen to consider that much confidential communication takes place on these occasions, which ought not to be disclosed but to the immediate parties concerned? The agency of private individuals might have been used in effecting the Treaty, and was it proper that their names should be published? With the facts he was perfectly unacquainted. The Committee would readily suppose he knew nothing of the secrets of the negotiation if such there were; but he thought there might be many, and they ought not to be divulged. Mr. B. added, that he believed the call for such papers to be wholly unprecedented. Just before the adoption of the present Government in France, a Treaty had been negotiated through the agency of the Committee of Safety with Spain. It is well known that strong objections were raised in the Convention, who then had the power of ratifying Treaties, against giving their consent to that; and though it was the subject of much debate, the instructions and correspondence of the negotiator were not called for. Suppose the PRESIDENT should be disposed to communicate the papers in question, it probably would be under an injunction of secrecy. Did the House mean to debate on the Treaty with closed doors? He conceived not. But if the papers were not to be disclosed to the public, they would not conduce to allay the public sensibility in respect to the Treaty, which had been assigned as one motive for calling for them, though he did not think it real; for he thought the addresses which had been made to the passions in the debate were calculated to increase instead of allaying any sensibility which may

have existed. A gentleman had said that he disapproved of the Treaty, insomuch that the Minister who negotiated it ought to be sent again as Minister Plenipotentiary to repeal it, if that was the only proper mode to get rid of it.

The same gentleman who said this also said, if he adored any thing in this world it was the voice of the people, and that their voice was against the Treaty. Mr. B. said, he respected the voice of the people; but where were they to find the voice of the people? That gentleman had referred to the petitions on the table. How many had petitioned against the Treaty? Were there as many as were necessary to choose one Representative in that House? No, not half so many. Was this then the voice of the people? He thought the voice of the people was to be collected from the diminutive appearance of the petitions themselves. The inference was strongly in favor of the voice of the people being with the Treaty, when it was considered what pains had been taken to gain petitioners; he thought, also, the voice of the people was to be collected from the proceedings of the State Legislatures, in relation to the conduct of the PRESIDENT and Senate in ratifying the Treaty. He stated that the several branches of the Legislature of New Hampshire had been unanimous in their expressions of approbation. In Massachusetts a similar spirit had been shown. The General Assembly of Rhode Island had been unanimous and explicit in their approbation of the conduct of the PRESIDENT and Senate. The unanimity of Connecticut on this subject was well known. The addresses at the meeting of the Legislature of New York had breathed a similar spirit; those of Pennsylvania, Delaware, and Maryland, also; the latter had been unanimous in their resolutions of approbation and confidence. He would not travel any further; some sentiments of a contrary complexion had been expressed to the South. The gentlemen had referred to the sensibility which had been exhibited in the town-meetings. Mr. B. acknowledged that much dissatisfaction with the Treaty had been shown in most of the populous towns; he believed, however, from recent appearances, it was much abated. The people had been deceived in their expectations in respect to the Treaty by several publications before the Treaty arrived, having exaggerated its advantages, and stated that every thing was obtained which had been asked for. Mr. B. said, he should not give his ideas of the Treaty at present, they would be reserved for a more proper time. He believed that in obeying the Constitution, they should obey the voice of the people. If a doubt existed as to what was the true construction of the Constitution, he believed it ought to be conformed to the opinion which prevailed when the Constitution was adopted, and he had shown that the most eminent men had then but one opinion in relation to it; they all agreed that the power of making Treaties was vested exclusively in the PRESIDENT and Senate. Mr. B. concluded by observing, that he had not intended to have carried his observations to so great a length, but as the State he represented was particularly interested

in the consequences of the principles which had been advanced, he had been the more lengthy. Indeed he did not consider these principles as necessarily involved in the question now before the Committee, but he confided that whatever might be the fate of this question, from the knowledge he had of the members of the Committee, that when they should come to decide on the question of carrying the Treaty into effect, they would duly respect the sacred obligations they were under to support the Constitution.

Mr. BRENT said he should not in the present debate touch on the merits of the Treaty, which he conceived foreign to this question. On a motion to ask for papers with respect to the Treaty, he did not conceive with what propriety the fitness of the instrument could be brought into view. It would be proper, he contended, to have the papers proposed to be called for, even if it was conceded that the House had no control in matters of Treaty; for if they were bound to carry it into operation, still the papers would be necessary to a due understanding of the subject. The motion, he argued, stands upon the same ground as the calls so often made for information to the Heads of Departments. But even if the papers are not necessary to give information as to the laws which it is said must be passed, they are necessary on another ground. The Constitution gives the House a general superintendence over the conduct of officers, and the power of impeachment; no member denies this right, and how can they exercise it understandingly without information? Can the Constitution be supposed to give this right of impeachment, and at the same time deprive the House of the means of information? This would be as absurd as to refer to a blind man to judge of shades and colors. How can the House decide on the ability or fidelity of the negotiator of the Treaty, unless they have a sight of his instructions, and of his correspondence? how can they determine on the merits or demerits of the negotiation?

The turn which the debate had taken had given rise, he said, to an important Constitutional question; he did not believe its decision of consequence to the decision on the present motion; but as the debate had taken that turn, he should pursue the same road in answer to the arguments of gentlemen. He laid this down as a sound inference from the provisions of the Constitution on the subject of the Treaty power: that the PRESIDENT and Senate possess the right of forming Treaties, and of carrying on the necessary negotiations with foreign countries; but when these contain stipulations bearing a relation to the specific power vested in the Legislature, the House had a right to take cognizance of it, and such Treaty could not become the supreme law of the land until sanctioned by the Legislature. To show the justness of this position, he should examine this subject, he said, in a threefold light. He should examine it by a recurrence to the words of the Constitution; then to the opinions which prevailed as to its meaning at the time it was framed and adopted; and, lastly, he should examine what con-

struction was best calculated to preserve the liberties of this country.

The Constitution contains two clauses in reference to the Treaty-making power. The first declares that the PRESIDENT, with two-thirds of the Senate, shall have power to make Treaties. He proceeded to inquire whether this clause gives them the right to make Treaties the supreme law of the land? To determine this it was necessary to examine the import of the word in those countries, where the Treaty power had been frequently exercised, and to consult the opinions of the best civilians. The general power of making Treaties is under the control of the Constitution. In despotic countries, where all power, Legislative, Judicial, and Executive, is in the hands of one person, there the Treaty-making power is without control, and a Treaty as soon as made becomes, *ipso facto*, the supreme law of the land; but in all limited Governments, the Treaty power is subject to the limitations in the Constitution. The practice of this principle may be found even in the British Government. There, though the King originates Treaties as the PRESIDENT and Senate do here, they do not become the supreme law of the land, respecting Legislative subjects, until the co-operation of Parliament is obtained. Thus the power of making Treaties does not imply the power of making those Treaties in all cases the supreme law of the land. If the Executive make a Treaty involving none but Executive powers strictly, then it becomes immediately the supreme law; but if they contain provisions, which involve the Legislative authority, the Executive can make them but conditionally, and they do not become supreme until the Legislature chose to make them so. The British Government furnishes an example where this doctrine has been practised, and it is by a reference to the practice of despotic Governments, that the mistaken idea is taken up, that all Treaties as soon as made become the supreme law of the land. The clause in our Constitution, he concluded, does not give authority to the PRESIDENT and Senate to make a supreme law of the land.

When this clause of the Constitution is compared with the other parts of it, it will be found, he said, that the above interpretation is just; for the Treaty-making power is delegated as a general power, while to Congress specific powers are granted. The rational and admitted rule of construction in these cases is, that specific power restrains general powers; and here, then, the general Treaty power must be restrained by the specific powers of Congress. He admitted that the Executive had full power, under the general authority vested in them by the Constitution, to originate Treaties and to carry on negotiations with foreign Powers; but that if the provisions of a Treaty so negotiated clashed with specific powers granted, the authority exercising these specific powers must give it their sanction before it becomes the supreme law of the land.

He next turned to the second clause of the Constitution respecting Treaties, which had been noticed in the debate. It says, that the Constitution,

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laws, and Treaties, shall be the supreme law of the land; and gentlemen contend, he remarked, that though the first clause does not make the Treaties entered into by the Executive the supreme law of the land, yet that this does; but its obvious and only meaning, when the whole of it is taken into view, is, that the Constitution, laws, and Treaties of the United States, are only meant to be declared supreme to Constitutions and laws of the individual States. It is admitted, as a sound rule of construction, that to discover the true meaning of any instrument, it is fair to have recourse to the existing circumstances that produced it. When the Constitution was formed, it was under a strong impression of the inconveniences experienced under the Confederation, when great obstruction was thrown in the way of the Treaty power, by the States refusing to carry into execution those agreed to by the Constitutional authority. This was the evil the framers of the Constitution had in view when they inserted this clause, and it has no relation to the powers of the General Government, which stand precisely in the same situation with or without it. It does not declare that Treaties shall abrogate laws, but that the States shall not have it in their power to throw impediments in the way of their execution. The words of the Constitution cannot be understood otherwise than that the Constitution, laws, and Treaties, shall exist together: it does not say that a Treaty shall repeal a law, or a law repeal a Treaty. Then the Constitution certainly contemplated that they never should be in opposition, for contradictory and opposing laws cannot exist at the same time; if they exist at the same time, they cannot be in opposition to each other. If it can be supposed that the PRESIDENT and Senate can make a Treaty in opposition to a law of the Legislature, and yet both the Treaty and the law be at the same time the supreme law of the land, an absurdity is supposed. But if it be admitted that the House shall have a participation in the business of Treaties, in cases which involve the Legislative authority, then the words of the Constitution become intelligible, and both Treaties and laws may be at the same time the supreme law of the land.

He further developed this idea. The Constitution says, that the PRESIDENT and Senate shall make Treaties, and that when concluded under the authority of the United States they shall be the supreme law of the land. This is intelligible, if the control of the House be admitted; for then, if the PRESIDENT and Senate make a commercial Treaty, in any part contrary to existing laws, the Congress repeals those laws, and the Treaty then becomes the supreme law, and when it commences its existence there is no opposing law. On this construction all existing laws will be supreme law; on the other, though all are declared supreme, yet all cannot be supreme when there is a clashing. A Treaty made by the PRESIDENT and Senate, as far as it relates to commercial concerns, is not a Treaty made under the authority of the United States until it has obtained the sanction of the Legislature.

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Gentlemen say, that Treaties, *ipso facto*, repeal anterior laws clashing with their provisions: they say, that the Constitution, laws, and Treaties, stand upon the same footing in the Constitution, being all declared the supreme law of the land. If Treaties can repeal laws, then laws can repeal the Constitution, for the second (laws) are to the first (Constitution) what the third (Treaties) are to the second (laws); then, also, by parity of reasoning, Treaties may repeal the Constitution. If all stand on the same footing, and the precedence is according to the point of time, the last law always prevailing, then Treaties may change the fundamental principles of our Government; then the PRESIDENT and Senate, by entering into stipulations with a foreign Government, may give us a Monarchy, may convert our PRESIDENT into a King, and our Senate into a nobility; for, say the gentlemen, Treaties are the law of the land as well as the Constitution, and a subsequent law repeals those which are anterior. But these positions are false in all their parts; a law or a Treaty cannot repeal the Constitution, nor can a Treaty repeal a law. If the manner in which the three words are placed in the Constitution is to have any force, it would not favor the construction of the gentlemen; they contend for the supremacy of Treaties, whereas Treaties are last named, and the true construction from this source would be the reverse, when there was clashing. He next adverted to the lengths to which the mode of interpretation contended for by the gentlemen would carry them. It was never intended, he asserted, by the people, when they instituted this Government, that the Treaty power should possess this omnipotence. It was never intended that the PRESIDENT and Senate should have it in their power to effect a radical change in our Government, and stipulate with a foreign nation for a guarantee of the change. Laws contrary to the Constitution are nugatory, and Treaties contrary to existing laws, the same; because, when in that stage, they are not concluded under the authority of the United States, but are only so (and then there is no longer any clashing) when once they have received the sanction of the Legislature. From the above, he concluded that the PRESIDENT and Senate originate Treaties, and that the Legislature to a certain extent should exercise a check upon this power. And upon these principles the British Treaty is not the supreme law of the land until a decision on it was had in the Legislature.

It might be supposed, Mr. B. observed, that his opinion of the true construction of this part of the Constitution was a solitary one—that it was a chimera of the imagination. Upon inquiry, it would, however, be found that this opinion was advanced at the time the Constitution was under consideration, in the several conventions which ratified it, and by the most distinguished writers of the day. A member from Massachusetts had quoted parts of the proceedings in the State of Virginia in support of his construction of the Constitution. He should not himself have brought forward the authority of that State in favor of a contrary construction, had not that gentleman

cited it as authority of great weight. But since he had endeavored to make use of the proceedings in that State as an offensive weapon, he would endeavor to employ them as a defensive weapon. Whatever aspect the debates of the Convention there might bear as partially quoted by the member from Massachusetts, he was bold to declare, that, on a careful examination, it would be found that the majority in that body construed the Constitution as contended by the friends to the present motion. By reading detached parts a different impression might be made; but if the whole of the debates were adverted to, it would be found that the PRESIDENT and Senate were thought to have the same relations to the Treaty-making power as the King of Great Britain has to England. He first quoted the sentiments of a gentleman in that body, to whose abilities the adoption of the Constitution was much attributed:

"The President and Senate have the same power of making Treaties, and when made they are to have the same force and validity. They are to be the supreme law of the land here. This book shows us they are so in England. Have we not seen in America that Treaties were violated, though they are in all countries considered the supreme law of the land? Was it therefore not necessary to declare, in explicit terms, they should be so here? How, then, is this Constitution on a different footing with the Government of Britain? The worthy member says, they can make a Treaty relinquishing our rights and inflicting punishments, because all Treaties are declared paramount to the Constitutions and laws of the States. An attentive consideration of this will show the Committee that they can do no such thing. The provision of the sixth article is, that this Constitution, and laws of the United States which shall be made in pursuance thereof, and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land! They can by this make no Treaty which shall be repugnant to the spirit of the Constitution, or inconsistent with the delegated powers. The Treaties they make must be under the authority of the United States, to be within their province. It is sufficiently secured, because it only declares that, in pursuance of the powers given, they shall be the supreme law of the land, notwithstanding anything in the Constitution or laws of particular States."

He then cited the sentiments of another member, who was also an advocate for the adoption of the Constitution:

"The honorable gentleman on the other side tells us that this doctrine is not sound, because in England it is declared that the consent of Parliament is not necessary. Had the honorable gentleman used his usual discernment and penetration, he would see the difference between a Commercial Treaty and other Treaties. A Commercial Treaty must be submitted to the consideration of Parliament; because such Treaties will render it necessary to alter some laws, add new clauses to some, and repeal others. If this be not done, the Treaty is void, *quo ad hoc*. The Mississippi cannot be dismembered but two ways—by a common Treaty or a Commercial Treaty. If the interest of Congress will lead them to yield it by the first, the law of nations would justify the people of Kentucky to resist, and the cession would be nugatory. It cannot, then, be surrendered by a common Treaty. Can it be done by a Com-

mmercial Treaty? If it should, the consent of the House of Representatives would be requisite, because of the correspondent alterations that must be made in the laws. [Here Mr. Corbin illustrated his position, by reading the last clause of the Treaty with France, which gives certain commercial privileges to the subjects of France: to give full effect to which, certain correspondent alterations were necessary in the commercial regulations.] This, continued he, secures Legislative interference."

He mentioned a third authority from the same source:

"I think the argument of the gentleman who restrained the supremacy of these to the laws of particular States, and not to Congress, is rational. Here the supremacy of a Treaty is contrasted with the supremacy of the laws of the States. It cannot be otherwise supreme. If it does not supersede their existing laws as far as they contravene its operation, it cannot be of any effect."

It was at that day the opposers of the Constitution who insisted, that the Constitution gave the PRESIDENT and Senate the unqualified power of making all Treaties, and they contended that this power would work the overthrow of liberty. If the public sentiment of that day is to be recurred to for an exposition of the Constitution, he wished to know whether the sentiments of the majority or minority were to be recurred to? Unless the gentlemen would prove that the minority gave on that occasion the true exposition of the Constitution, the sense of the majority must be considered as expressing the wishes of the people, under the opinion which caused the ratification of the instrument.

The Committee had been told, however, that the deliberations of the North Carolina Convention bore a different aspect. But here the gentlemen had been equally unfortunate in their quotations, for they had cited the sentiments held out in the Convention that did not ratify the Constitution; that that Convention was dissolved before the Constitution was adopted; that another met, who received and ratified it, and a worthy Representative from North Carolina now in Congress, who was a member of the Convention, has informed, that the construction given to the Treaty power by the friends of the instrument in that body, was the one contended for by the advocates of the present motion. The first Convention who misconstrued the Treaty power broke up without sanctioning the instrument; but the second, who construed it differently, and who ratified the Constitution, must undoubtedly be considered as having really expressed the sentiments of the people.

He was surprised that gentlemen should conceive the construction now contended for as novel; that the member from Massachusetts should, in so earnest a manner, declare, that the doctrine is novel, when, by recurring to the very debates he produced, the construction was unequivocally laid down. To make the assertion he must entirely have lost sight of the various debates and writings of the day. He would quote a passage from the work of a distinguished writer of the day, who was in opposition to the adoption of the Constitution, but who, though he made va-

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rious objections to the instrument, and appeared solicitous to find fault, yet construed the part of the Constitution now under consideration as the friends to the motion do. He meant the *Federal Farmer*. The following is the passage he quoted :

"On a fair construction of the Constitution, I think the Legislature has a proper control over the President and Senate in settling Commercial Treaties. By one article, 'the Legislature shall have power to regulate commerce with foreign nations,' &c., and by another article, 'the President, with the advice and consent of two-thirds of the Senate, shall have power to make Treaties.' These clauses must be considered together; and we ought never to make one part of the same instrument contradict another, if it can be avoided by any reasonable construction. By the first recited clause, the Legislature has the power; that is, as I understand it, the sole power, to regulate commerce with foreign nations, or to make all the rules and regulations respecting trade and commerce between our citizens and foreigners. By the second recited clause, the President and Senate have power generally to make Treaties. There are several kinds of Treaties, as Treaties of Commerce, of Peace, of Alliance, &c. I think the words, 'to make Treaties,' may be consistently construed, and yet so as it shall be left to the Legislature to confirm commercial Treaties. They are in their nature and operation, very distinct from Treaties of Peace and of Alliance. The latter generally require secrecy: it is but very seldom they interfere with the laws and internal police of the country. To make them, is properly the exercise of Executive powers; and the Constitution authorizes the President and Senate to make Treaties, and gives the Legislature no power directly or indirectly respecting these Treaties of Peace and Alliance. As to Treaties of commerce, they do not generally require secrecy; they almost always involve in them Legislative powers; interfere with the laws and internal police of the country: and operate immediately on persons or property, especially in commercial towns: (they have in Great Britain usually been confirmed by Parliament.) They consist of rules and regulations respecting commerce: and to regulate commerce, or to make regulations respecting commerce the Federal Legislature, by the Constitution, has the power. I do not see that any commercial regulations can be made in Treaties, that will not infringe upon this power in the Legislature. Therefore I infer, that the true construction is, that the President and Senate shall make Treaties: but all Commercial Treaties shall be subject to be confirmed by the Legislature. This construction will render the clauses consistent, and make the powers of the President and Senate respecting Treaties, much less exceptionable."

He contended that the power of making Treaties, and of entering into foreign negotiations, did not imply a power of making them laws of the land: and that, if the Constitution meant to place Constitution, laws, and Treaties on the same footing, and that the PRESIDENT and Senate could repeal laws and change the Constitution, that instrument was monstrous indeed, and if it had been so understood, could never have received the sanction of the different Conventions. It was ratified under the impression, that the PRESIDENT and Senate had the power of originating Treaties; but that when they involved Legislative considerations, they did not become Treaties under the

authority of the United States, until they had been submitted to the Legislature.

Gentlemen had asserted, that if the construction of the friends of the resolution prevailed, it would be difficult to regulate our foreign concerns. He could not see the justice of this remark, for the Treaty power had been exercised under these modifications in Great Britain, and it had not been found defective in this particular. Indeed, it is more likely to be expected, that this would not have been brought in as an argument, as the very Treaty now in question will stand in Great Britain precisely on the footing here contended for.

He might have recourse to the pamphlet called *The Federalist*, as another authority to prove his construction. He expressed his surprise that the gentleman from Massachusetts should never have heard of these opinions and authorities. The debates of the Pennsylvanian Convention, he understood, were analogous to those in Virginia.

If the PRESIDENT and Senate possess this unlimited Treaty-making power, what security, he asked, have we for our rights? He was not referring to the persons now in office, who might be all virtue; but he was speaking of the consequence of the principle. Though the PRESIDENT and Senate of the present day might never make an improper use of power, what might occur at a future day should be adverted to, for the Constitution was not intended for the present day only, but for future times. As highly as he valued the PRESIDENT, as much as he felt for the great services he had rendered, yet even him he would not trust with such unbounded power. Unlimited power was apt to corrupt the purest heart, and he wished to do nothing that could cast a shade over that character which had been the admiration of the intelligent world. But liberty he considered as the best gift of heaven to man, and he did not wish to hold it by the courtesy of any man.

The amendments proposed by the Convention of Virginia were cited as proving that Virginia saw the Constitution in the light contended for. If they are attended to, he conceived they could not ascertain the fact. The amendment in question goes to providing, that no Commercial Treaty shall be concluded without the consent of two-thirds of the lower House; but surely this does not go to prove that they conceived the House had no voice in those Treaties, directly or indirectly.

If it be admitted that the PRESIDENT and Senate can make Treaties, which *ipso facto* become laws of the land, without any assent of the House, without their being able even to exercise their discretion in making appropriations, then the House are a mere body for form sake. The advocates of this construction had stated, as an example, the case of the Judges' salary, which the Constitution declares shall neither be increased nor diminished while they remain in office; and they contended, that the House could no more refuse appropriations to carry a Treaty into effect, than to refuse to make provision for the salaries

of those Judges. There was, he conceived, a material distinction between the two cases. In the first, the House were bound by no Constitutional tie; in the latter, they lay under an express injunction of the Constitution, from which they could not depart without perjury. When there is a Constitutional injunction to appropriate, no discretion is left to the Legislature; but when even a law is to be carried into effect, by an appropriation, the House may withhold it, and thus indirectly repeal the law. The Constitution not only intended to vest in the House this discretionary power of repealing a law by refusing appropriations; but it was so attached to it, that in one case, it cannot divest itself of it, but is bound to exercise it periodically; such is the case on the subject of military force; and notwithstanding the important light in which the Constitution views this power of appropriation, and the jealousy with which it is guarded; yet some members are hardy enough to insist, that it would be a violation of the Constitution to exercise this discretion. If the House should attempt to exercise this discretion, when they are under a Constitutional injunction to appropriate, they would be departing from the Constitution; but if they use it to effect the repeal of a law, they exercise a right the Constitution has given them, and of which they cannot divest themselves, and a Treaty cannot be looked upon in any other light than a law.

He recapitulated the principal features of the preceding remarks.

He then adverted to the charge of treason which had been thrown out against the friends of the resolution; and remarked, that the Constitution may be violated by other departments of Government as well as the House, and that if this was treason in one case, it must be in the other. It was not for the PRESIDENT and Senate that the Constitution was formed; but for the people to preserve their liberties, and that Constitution would be infringed, if an intended check was done away by a forced construction. To give a power, not intended when the Constitution was adopted, to the PRESIDENT and Senate, was as much overturning the established order of Government, as to encroach upon their authority. The aim of every man should be to preserve the happy mean; not to suffer any department to engross more power than it should have; to preserve the symmetry of the fabric, and keep the balance; for whichever way it inclined, whether too much towards democracy, or too much towards Executive energy, in either case the epithets of revolutionary, disorganizing, &c., might be applied.

An insinuation, he remarked, had been brought into view, both uncandid and unkind. It was suggested, that the present motion was brought forward, because the Treaty is made with Great Britain. Why should members impute to others improper motives? The insinuation he considered as unwarrantable and groundless. For his own part, he was free to declare, that if the Treaty was the best that could be made; if it poured a stream

of wealth into the lap of our country, if made with his most favorite nation, and it was attempted to be carried into effect by a violation of the Constitution he would oppose it. Though a departure from the Constitution at one time may bestow some fugitive advantages, yet he was firmly of opinion, that such deviations would go finally to its destruction. If a single departure from the Constitution be once permitted, the Government will subject it to constant violation.

He did not conceive, that the decision of the present question went to decide any question with respect to the Treaty. Though the present resolution be adopted, he should still feel himself at liberty to consider freely the merits of the Treaty when that comes before the House; by voting for this resolution he should not consider himself committed. He did not wish to make up his mind on the Treaty hastily; when before the House if advantageous he should give it his assent; but the present is not a Treaty question, it is only a question involving certain Constitutional powers of the Legislature. He was not prepared to give his sanction to the Treaty; but if, upon full inquiry, he found it for the interest of the country that it should be carried into effect, he certainly would vote for it; but he must confess, that if the papers proposed to be called for were not obtained, it would make upon his mind a disagreeable impression with respect to that instrument.

The Committee rose, reported progress, and obtained leave to sit again.

MARCH 16.—In Committee of the Whole on Mr. LIVINGSTON'S resolution:

Mr. FREEMAN observed, that the resolution before the Committee had unexpectedly to him involved in its discussion a question of a serious and interesting nature. It was not his intention to consider, at present, the principle advocated by the gentleman from Pennsylvania, that on all Treaties embracing Legislative objects, the ultimate sanction of that House was necessary to give them effect. Many ingenious arguments had been adduced for and against the principle, and had created such doubts and difficulties in his mind, that he could not now solve them to his own satisfaction. He regretted that any zeal had been discovered in discussing a delicate Constitutional question. He did not think much zeal had a tendency to discover the truth. Men actuated by it were generally like bodies that were consumed by their own heat, without imparting much warmth or light to others.

In the course of debate, gentlemen appeared to have shaped the question to the observations they intended to make, instead of adapting their observations to the real state of the question. A gentleman from Massachusetts had stated the real question to be, whether that House should by construction and implication invade the powers vested in the other departments of Government. He did not think this a fair view of the question. He considered the real question to be, how far the Treaty-making power could be extended without infringing the specific powers delegated to Congress. He should follow the example of other gen-

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tlemen and take such a view of the subject as appeared to him sufficient on the present resolution; and the question with him was, whether the House when called upon to make Legislative provision for carrying a Treaty into effect, had a right to discuss the expediency or inexpediency of granting it. On this question, he contended, the House had as complete and absolute a discretion, as they had on other objects of legislation. If the granting an appropriation to carry a Treaty into effect would produce greater evils to the community than the withholding it, he certainly should consider the House justifiable in refusing to make the appropriation. Gentlemen have contended that the Representatives were under a moral obligation resulting from a Treaty to carry it into effect: But many circumstances are mentioned by writers on the Laws of Nations, which render Treaties a nullity of themselves; and each individual, when called upon to give or withhold his assent to an appropriation bill for carrying a Treaty into effect, was to examine and judge for himself of the extent of that obligation, and of the propriety of giving or withholding his assent. He must be governed by his own moral sense, and not by that which resides in the breast of another. The argument founded on the moral obligation did not amount to any thing. For in all cases of legislation where the most ample discretion was admitted, if the fitness of a measure could be demonstrated, the House were under a moral obligation to adopt it. It was true, he conceded, that a Treaty with a foreign Power was a serious thing, and ought not, for light causes, to be violated. The nature and obligation of the compact would be taken into view, on the question of the expediency of giving it operation; but gentlemen ought not to confound the freedom of the will, or the right of voting, according to the judgment and discretion of the agent, with the strong motives which may be offered to influence the decision either the one way or the other. To say that a man was under a moral obligation to do a thing without examining the subject, and ascertaining the moral obligation by his own moral sense, was absurd. He conceived that even where existing laws ascertained the compensation for certain officers, still circumstances might arise to justify the Legislature in suspending the necessary appropriation for the payment. The whole resources of the public might be absorbed in time of war in providing the means of national defence. It might become indispensably necessary to delay the payment of the salaries due even to the PRESIDENT and Judicial officers, whose compensation by the Constitution is not to be increased or diminished during their continuance in office. But cases of this kind stood upon stronger ground than compensations to other officers, and appropriations for carrying laws or Treaties into effect; neither did he agree with the gentleman from South Carolina, that the PRESIDENT OF THE UNITED STATES had the same right to refuse to fill an office created by a law, or the Judges of the Supreme Court to refuse to decide causes, that the House had to withhold their assent to an appropriation to carry a Treaty

into effect. The only discretion in the first instance was not to determine whether he should obey the law, but to select a proper character; in the second, not to determine whether they should decide causes, but the manner in which they should be decided. And if either of the officers abovementioned were to refuse to obey the laws, they were impeachable; but that House was amenable to no tribunal on earth for refusing an appropriation whenever they thought proper to do so.

The gentleman from Massachusetts had said that he was advocating an unpopular doctrine. Mr. F. did not know why he should think so. The gentleman undoubtedly supposes that he has reasoned justly. If so, why should he conclude that a majority of the people will not reason as correctly as he had, and entertain the same sentiments. Mr. F. believed that a majority of the people generally reasoned justly upon political objects. But in debate he did not like allusions of that kind.

A gentleman from New York had said, that revenue officers might follow the example of that House and say, that their will was necessary, and refuse to execute a law until it had their approbation. But did it follow from the doctrine that the concurrence of the House of Representatives was necessary in passing a law, that the concurrence of revenue officers was also necessary? The same gentleman farther observed, that the people might say their consent was necessary to sanction a law. In the latter case the gentleman stood on better ground. The consent of the people was necessary, and by their Constitution the Legislature are the organ to express the public will. Imperious necessity might induce the people to demand a new organization of the Government, but he presumed the enlightened people of America would never seek an alteration in the form of their Government, in any other than the Constitutional mode, until all hopes of success in that way should fail.

The gentleman from Massachusetts has said, that the House had no right to call for the papers in question, because they were the joint property of Great Britain and the United States. They may contain secrets which could not be divulged without a breach of faith. In support of the doctrine, the gentleman alluded to some principles in *Paley's Moral Philosophy* and *Vattel's Law of Nations*. Mr. F. denied the application of the principle to the case before the Committee. Where two nations were in alliance and carrying on joint operations against a common enemy, there might be secrets which neither party could divulge without a breach of faith. But the United States are not in alliance with Great Britain. They are concerned in no operations against a common enemy. What secrets could possibly exist between them? Were the PRESIDENT and Senate the depository of the secrets of the British Court? He did not conceive that they were upon so intimate a footing. Indeed, he should conceive it to be the vilest calumny were any man to suggest that any other connexion subsisted between them than what was publicly known. A Treaty of Amity, Commerce, and Navigation, was a mere bargain; and

the negotiators would represent the situation of their respective countries in the most favorable point of view. Would Mr. Grenville betray the secrets of his Government? Would he represent it to be exhausted with public debt, and crumbling to pieces, or exhibit its situation in the most splendid colors? On the other hand, would Mr. Jay communicate any thing to the British Minister respecting the situation of this country, which it would be improper to be laid before the House of Representatives? Surely not.

A gentleman from New York made some further observations which he should notice. He said common sense revolted at the construction put upon the Constitution, which he said had been well understood from the school-boy to the Senator. Mr. F. did not know how well the gentleman understood it, but for his own part he had his doubts. The Judges of the Supreme Court and other gentlemen of abilities had held different opinions on several parts of the Constitution. Was it wonderful then that members in that House should entertain different sentiments with respect to the extent of the Treaty-making power? The same gentleman said it was no matter whether the Treaty was good or bad; it was all stuff. That many people were determined not to like it, before it was promulgated. Mr. F. observed, that he should be extremely unhappy that the people should suppose that their Representatives assembled to support a side, not to investigate truth; that they voted one way or the other, just as party spirit or prejudice led them. Though he believed that gentleman had made up his mind on the subject, his mind, and he believed the minds of many others, were open to receive such impressions as the arguments which might yet be adduced ought to produce.

The same gentleman had said that some persons were opposed to the Treaty, because it compelled them to pay their debts. Every one knew that the remark was pointed to a particular State. But he would ask what clause in the Treaty placed an individual debtor of the United States in a worse situation, as to the payment of his debts, than he was before? He could discover none. He could not, he said, place his eye upon a single member in that House, and say, that he believed he wished to subvert the Government, or to destroy the peace and happiness of the United States. The same member had said, that the gentleman from Virginia ought to be bold, and that he might expect to be called jacobin, revolutionist, disorganizer, &c., as removers of ancient landmarks were always ill-spoken of. Mr. F. held it to be criminal, not only to remove ancient landmarks, but to suffer them to moulder away through inattention. The present question was not intended to remove landmarks, but to ascertain and establish them; not to invade the powers of any department of the Government, but to ascertain the true boundaries, and the appropriate powers of each. The gentleman had said he should vote in the negative, because he had sworn to support the Constitution. Mr. F. said, that he should contend for the right of the House, not only because he had sworn to sup-

port the Constitution, but from a more generous principle, because he was attached to it. He could not give an impressive effect to his observations by appealing to the blood which he had shed, or to a frame mutilated in acquiring the independence of his country; but if occasion required, he was willing to mutilate the one, and to shed the other in its defence; but the man who means in these times honestly to discharge his duty, must prepare for a severe destiny; to have his reputation assailed by unfounded calumnies; to be branded with epithets which he does not deserve; to have sentiments ascribed to him which he never felt; to be charged with base, dark, malignant designs against the Government, which the human heart is hardly capable of conceiving.

With respect to the resolution before the House, when it was first laid on the table he viewed it with regret; but as the discussion had involved a different question, if the amendment, formerly moved by a gentleman from Virginia, should be renewed and obtain, he should vote for the resolution.

Gentlemen asked what benefit would result from adopting the resolution? In the first place, it would be conciliatory. Many members wished to see the papers, and he was willing they should be gratified. In the second, they might explain any doubtful parts of the Treaty. If the present resolution was considered by him an encroachment upon the Executive, he certainly should be against it. On what principle was it that the Representatives were placed at such an immense distance from the Executive, that they could not approach him with decency and respect to ask for information on a subject before them?

It had been observed that, the papers might be seen in the office of the Secretary of the Senate. Why, then, should those members who wished to see them be compelled to go into the office of the Secretary of the Senate, and depend upon the courtesy of the Clerk for information which might as well be obtained in a more direct channel? Was it improper to have that information before the House, which might be obtained in a more indirect manner?

The negotiator has publicly quoted a part of the correspondence, and, perhaps, if the whole could be seen by the House, they would be convinced of the general friendly disposition of Great Britain towards this country.

Mr. F. did not conceive himself committed, as he claimed the right of changing his opinions as often as good reasons therefor presented themselves to his mind.

[The observations made by Mr. FINDLEY were not distinctly heard on account of a high wind. He has, therefore, to prevent being misstated, favored us with the following extract of such of his notes as he spoke from. The incidental replies which fell from him in answer to observations made in the course of the debate, and the desultory enlargements which he went into in speaking from the principles he had digested previous to his taking the floor, are not included in the following sketch.]

Mr. FINDLEY.—It seems to be agreed by both

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parties, that the express words of the Constitution will not support either position without a liberty of construction. The difference of opinion is now confined to what construction is most agreeable to the general principles of the Constitution.

That the construction which gives the fullest scope to all the powers vested in the different departments of the Government, and which, by combining their operation, is the best calculated for the preservation of the Government itself, offers fairest to be the true one, cannot reasonably be doubted.

The Legislative powers, to regulate commerce with foreign nations, to levy taxes, appropriate money, &c., are specially vested in Congress, and as deposited in the Legislature, are secured by numerous negative checks, declaring what things Congress shall not do, and guards regulating the manner in which it shall exercise its powers on the proper subjects.

The Treaty-making power is not vested in Congress; the negotiating part of making Treaties is partly of an Executive nature, and can be most conveniently exercised by that department, and is, therefore, vested in the PRESIDENT and Senate. The PRESIDENT shall have power to make Treaties, two-thirds of the Senate agreeing therewith.

Even the power of negotiating, which includes the timing of Treaties, the appointment of Envoys, and instructing them, and approving of Treaties, so far as to present them for ratification, are powers of great importance, and may put the Government in such circumstances as to render it expedient to ratify a Treaty, which, if it had not been agreed to by the negotiating agents, it would have rejected—are powers of great importance of themselves; but it is acknowledged that more than this is vested by the Constitution in the Treaty-making powers.

The power of making Treaties is admitted to be so extensive as to embrace all subjects arising under the Law of Nations, for securing amity and friendship betwixt nations, and for the mutual protection of the citizens in their correspondence with each other. Authority for this purpose is not vested in Congress among the enumerated powers, but expressly given to the PRESIDENT and Senate; therefore, Treaties, to this extent, ratified under their authority, are the laws of the land, according to the Constitution.

The powers specifically vested in Congress are so explicitly checked and guarded, as to form an unequivocal limitation to the Treaty-making power, when it extends to powers specifically vested in the Legislature, consisting of the Senate and House of Representatives, with the approbation of the PRESIDENT.

The Legislature cannot transfer its essential powers, nor evade them; the exercise of its privileges it may dispense with, but if it may dispense with or transfer any one Legislative power, it may on the same principle, dispense with or transfer every power with which it is vested, and for the exercise of which the Legislature only are responsible.

The Executive cannot assume or exercise any power expressly vested in the Legislature. If the Executive may, by an extension of the Treaty-making power, regulate commerce, make laws to raise or appropriate money, &c., or, which is the same thing, command laws to be made for carrying Treaties, which interfere with the Legislative powers, into effect; or if, as is contended, the Legislature has no moral power of discretion, no power to refuse to make laws to carry Treaties into effect, or even to form an opinion on the goodness or badness of Treaties, when they relate to powers explicitly intrusted to its deliberation:—on the same principle all Legislative discretion may be exercised by the Treaty-making power without regard to the Constitutional guards provided to prevent the abuses of those powers. For there is no Legislative power vested in Congress but what may be either directly or indirectly exercised by the Treaty-making power.

If the Treaty-making power is admitted to the extent pleaded for, and the specific powers vested in Congress are admitted in the extent in which they are unequivocally expressed, we are reduced to a dilemma, and the Constitution is necessarily admitted to have instituted two interfering Legislative authorities, acting in direct competition with each other on the same subjects, and both making supreme laws of the land; which though they may be nominally distinct; have the same effect on the citizens, with this difference only, that we may be relieved from the oppression of laws by a repeal of them, but cannot be relieved from the hardships resulting from a Treaty, without the consent of another nation.

In advocating the resolution before the Committee, we admit a reasonable latitude to both the Legislative and Treaty-making powers. Where the Treaty-making power extends itself to express Legislative objects, and where Legislative aid is absolutely necessary to carry the Treaty into effect, we contend that the Legislature, in making such laws, exercise that moral power that is necessary for legislating in all other cases, and are not reduced to the situation of an executive officer, or mere treasurers of the United States. In this case, we say, that the powers are not intended to make war with each other; that the departments ought to concur in the exercise of them. This method preserves the exercise of both powers in their proper places; the other destroys the Legislative authority which is, by the Constitution, the most explicitly vested, and precisely guarded.

The 18th Legislative power vested in Congress, which has been generally called the sweeping clause, has been often objected to as, in a great measure, defeating the checks on the specified powers vested in Congress, and as endangering the powers reserved to the States, and enabling Congress to enact laws of a questionable nature. To these purposes it might have been improperly applied.

As a shield, however, against Executive encroachments, it has always been acknowledged as proper and necessary. It not only vests Con-

gress with authority to carry the foregoing seventeen powers into effect, but all other powers vested in any department or officer of the Government. The PRESIDENT and Senate, in the exercise of the Treaty-making power, are a department of the Government, and, as such, subjected to the Legislative power of Congress, of which they are a part.

This clause would go far to prove the right of Congress to exercise a formal negative over Treaties of every description, before they become the law of the land; and this was what the minority of the Convention of Pennsylvania plead for as an amendment to the Constitution. I did not then believe it was secured in the Constitution, nor do I contend for it now.

That the concurrence plead for is not impracticable, as has been alleged, is evident from the practice of all other limited and free Governments. It is an established principle, by writers on the Law of Nations, and is agreeable to reason, that Treaties are to be made in every nation by those who exercise the supreme sovereign authority, and this is agreeable to the practice of all nations.

In despotic Governments, the Monarch who makes the Treaty exercises both the Legislative and Executive authority; therefore, Treaties made by him, are, of course, the law of the land. In Britain, Holland, &c., where the sovereign power is vested in different departments, the consent of all the departments to a Treaty, which embraces the powers vested in those departments, is uniformly necessary to make those Treaties the law of the land.

That there are inconveniences attending this concurrence in making Treaties, is admitted. There are inconveniences attending the operation of all the checks peculiar to a limited Government; but they have not been found detrimental in practice. Britain and Holland have arisen to as much grandeur in proportion to their means, and have been as successful in making Treaties, as any nations under the sun; yet Treaties, at least on Legislative subjects, in Holland, must have the approbation of the different provinces, and in Britain, of the Parliament, before they are the law of the land. That the Treaty with Britain now before this House was laid before the British Parliament for its approbation, was announced by the latest accounts from that country.

The construction which gives a latitude to all the powers vested by the Constitution, is most agreeable to the division of powers, essential to free Governments, and best suited to the preservation of the Government itself. A concurrence of powers, where they interfere in their exercise, is a salutary guard against abuses; but, if, where the interference happens, one of the powers must yield absolute and implicit obedience to the other, without limitation, as is contended, the submitting power must, in the event, be annihilated by the paramount power, or become a mere formal and inefficient agent.

In opposition to the resolution, it is asserted, that this doctrine is new. To me, the opposite opinion is novel and surprising. The minority of

the ratifying Convention of Pennsylvania has been adduced to prove, that this was not believed to be the meaning of the Constitution at that time.

Only the arguments in favor of the Constitution made in that body were preserved; but, being a member of it, and in the minority, I have a good recollection of the sentiments expressed in it.

The advocates of the Constitution, one of whom was a celebrated politician, and had an eminent hand in framing the Constitution itself, maintained that an effective, though indirect check on the Treaty-making power, would naturally grow out of the exercise of the Legislative authority; that this would be a complete check on the exercise of the Treaty-making power, so far as respected the authority of Congress. This was admitted by the minority, but they objected to the effects which Treaties might have on the State Governments; and that, in some cases, the Constitution itself might be infringed by it. The State Governments have since been secured by an amendment to the Constitution. I did not, however, expect the sentiments of a minority, acting under peculiar circumstances of irritation, and consisting of but about one fifth of the members, to be quoted as a good authority for the true sense of the Constitution on this occasion.

There is a discernible difference between the mode of expression in the article by which the Treaty-making power is vested in the Executive, and in the article where it is declared to be the supreme law of the land; in the first, it is said generally, that the PRESIDENT and Senate shall make Treaties, without defining the extent of the objects to which they shall extend, nor of their obligation; this, of itself, may be reasonably construed to extend to such objects as were not previously vested in Congress. Thus, a man in making his will, bequeaths expressly such portions of his estate as he thinks proper to his children in common; and, by a subsequent clause, bequeaths his estate, in general words, to his eldest son. By a reasonable construction, this does not entitle the eldest son to the whole estate, but to such parts of it as were not otherwise disposed of.

In the article where Treaties are declared to be the supreme law of the land, they are joined with the Constitution, the laws, and the then existing Treaties, and in connexion with them, declared to be superior to the Constitution and laws of the States; but in this clause it is not said they are so simply, as made by the PRESIDENT and Senate, but as made under the authority of the United States. The different manner of expression in the two places could not have been introduced without design; it was as easy to have said by the PRESIDENT and Senate, as under the authority of the United States, if the latter had not been intended to mean, in some cases, a more extensive concurrence of authority than the former.

It is no more extraordinary to say, that the PRESIDENT and Senate make Treaties, while it is understood that, where these Treaties embrace Legislative cases, they ought, for carrying them into effect, to be submitted to the discretion of Con-

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gress, consisting of the Senate, the House of Representatives, and the PRESIDENT, than it is to say, as in the first section of the Constitution, that the powers of making all laws shall be vested in a Congress, consisting of a Senate and House of Representatives, while a reserve is understood in favor of the approbation of the PRESIDENT, with out which no act of Congress can be the law of the land, even though sanctioned with the unanimous consent of both Houses of Congress.

The small States can receive no injury from the discretion of the Legislature being exercised in making laws to carry Treaties into effect; as exercised by the Legislature, there is ample security that no preference shall be given to the ports, or, by analogy, to the exports of any State, large or small; and it is evident that the Treaty-making power, not being bound by the Constitutional guards, may suppress or burden the exports of any number of States. The first instance given operates against the exports of small States; witness the restrictions on the exportation of the cotton of South Carolina and Georgia, by the Treaty as negotiated.

If the papers called for contain information concerning the state of the Union, there can be no doubt but we have a right to call for them; on this the question can only be about the expediency, and not the right, of calling on the PRESIDENT for them. It is not because the Treaty was made with Britain, or is thought a bad one, that I insist on the right of Legislative discretion: I would insist on the same right, let the Treaty be good or bad, or if it had been made with any other European Power.

Mr. SMITH, of New Hampshire, said, he had not intended to have delivered his sentiments on the question before the Committee, but as he did not fully agree in opinion with any gentleman who had spoken, it became necessary for him to express the grounds of his opinion. This he would do as briefly as possible.

The question was, shall we call on the PRESIDENT for his instructions given to the Minister who negotiated the Treaty lately made with Great Britain; the correspondence and other documents which relate to the formation of that instrument? He agreed in opinion with those gentlemen who saw nothing unconstitutional in calling for papers containing information upon subjects on which the House were called upon to decide. It was certainly within the powers of the House. He conceived they not only possessed the right, but that it was their duty to call for all papers and documents which could enlighten their minds or inform their judgments on all subjects within their sphere of agency. He had always been in favor of such calls. A Treaty made with Great Britain had lately been communicated to the House. It had been said, that this instrument was unconstitutional. If it were so, he admitted that it was not binding on the nation, and that the House were not bound to give their aid to fulfil it. There were other cases in which he should feel himself at liberty to refuse to provide the means for carrying a Treaty into effect. These might

be denominated extreme cases—cases of an abuse of power, such as that of palpably or manifestly betraying and sacrificing the private interests of the State. Such Treaties, he conceived, had no binding influence on the nation, and this upon natural principles. But it would not be contended, that the papers in question were necessary to enable the House to decide on these questions. He conceived they were not.

If the House of Representatives have any agency in the business of making Treaties; if their sanction is necessary before the instrument acquires any binding influence on the nation; if it be not valid without such sanction, he conceived there was the same reason that all the papers which relate to the formation of the Treaty should be laid before that House, as there was that these papers should have been laid before the Senate. This had been asserted. If he believed in this doctrine, he should feel himself bound to vote for the call; but he denied that this was the case; and he said that in the course of his observations he should endeavor to prove that no such doctrine was to be found in the Constitution. As this question involved the Constitutional powers of the House, he viewed it as important; it was a delicate question. We were called upon to decide as to our own powers. For these reasons he thought that the discussion should be conducted with moderation, coolness, and candor; that such a temper was most favorable to truth. However gentlemen might differ, he observed, on other subjects, in this we are all agreed, that, in forming our judgments on all such questions, the Constitution must be our sole guide. It was this instrument, he said, which defines the powers given to the General Government, and which distributes these powers among the several departments. If the Constitution had not assigned to each its peculiar portion of power, these departments, like the original elements, would be engaged in a perpetual war for power. All would be confusion, disorder, and anarchy. He proposed, in the first place, to give what he conceived to be the true exposition of the Constitution, on the subject of Treaties in general. He should then, he said, state as correctly as possible the exposition or construction of the Constitution contended for by the gentlemen opposed to him. He lamented that he could not do this with greater accuracy. The gentlemen had not agreed among themselves. He could only state what seemed to be the general current of opinion. The construction which he advocated was, that, by the Constitution of the United States, the power of making Treaties is exclusively vested in the PRESIDENT and two-thirds of the Senate. That this power extends to all kinds of Treaties—of Peace, of Alliance, of Amity, of Commerce and Navigation, and embraces all those subjects, and comprehends all those objects, which can with propriety be the subject of convention or compact between nations; that is, every thing in which they have a mutual or common interest. That a compact so made which does not change the Constitution, and which does not palpably and manifestly betray or sacrifice the private in-

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terests of the State, (which is invalid on natural principles) is binding on the nation without any sanction on the part of the House of Representatives. That such a Treaty is by the Constitution paramount to the Constitution and laws of the several States; that the Judges in the several States are bound to obey it. That it is by the reason and nature of the thing paramount to a law of the United States, and abrogates and annuls all pre-existing laws contrary to it, and, as long as it remains in force, limits and restricts the power of the Legislature of the United States to pass any laws in contravention of it. That, when such a Treaty requires money to be provided, or other Legislative acts to be performed, it is the duty of the Legislature to provide and appropriate the money in the same manner as it is their duty to provide and appropriate money for the payment of our debts. That the nation must judge whether it be constitutionally formed or not; whether the stipulations contained in it be such as in good faith they are bound to execute, and whether any circumstances have happened which would justify a non-observance of it. That on these subjects they must exercise a sound discretion. That neither the nation, nor any departments of the Government, are at liberty to reject a Treaty merely because it is a hard bargain.

The doctrine on the other side is—

That the power to make Treaties is limited to such objects as are not comprehended and included in the specific powers given to Congress by the Constitution; or, that a Treaty which comprehends or embraces any such object is not valid; that is, not the supreme law of the land, until the House of Representatives have added their sanction to it; or, if this be not admitted, that the House of Representatives, by the theory of our Constitution, have check on the Treaty-making power, in providing and appropriating money necessary to carry a Treaty into effect; which power, it is admitted on all hands, they possess; and thus in this way control the doings of the PRESIDENT and Senate, and can reject a Treaty, or at least certain parts of it. That they can and ought to do this if they believe the Treaty to be a bad one, though not injurious in an extreme, such as manifestly betraying or sacrificing the private interest of the State, (which by the Law of Nations nullifies such a compact,) and which on all hands would readily be admitted as a sufficient cause for refusing to carry it into execution.

He said he had thought it proper to present to the Committee this general view of the subject to guard against all misconception, that the real difference of opinion entertained on this part of the Constitution might be discerned, and that his subsequent remarks might be the better understood. He should now, he said, inquire what were the objects embraced by the Treaty power; how far this power might be extended? The Constitution declares that all the Legislative power therein granted shall be vested in Congress, and that the Executive power shall be vested in the PRESIDENT. He said it was difficult, perhaps impossible, with perfect accuracy, to draw the line

between Legislative and Executive powers. Some of these powers were of such a nature that it was easy to pronounce concerning them; but there were cases in which there was much room for doubt; there was a sort of middle ground, where in practice the power over the same subject was sometimes exercised by the one and sometimes by the other. According to the theory of most Governments, the Treaty-making power is, for obvious reasons, given to the Executive; yet he conceived that this power was, in its nature, more analogous to Legislative than to Executive power. Had the Constitution been silent as to the organ which should exercise this power there might have been plausible arguments in favor of giving it to the Legislature. But the Constitution had not been silent; it was extremely clear that the Treaty-making power, to whatever objects it may extend, is vested in the PRESIDENT, with this limitation, that the consent of two-thirds of the Senate is necessary to give validity to the act. It is also clear, that, according to our Constitution, (however the thing may be in theory,) the Treaty power is not Legislative, for all the Legislative power is given to Congress, while this is given to the PRESIDENT and Senate. It seems scarce necessary to add, that these powers are exclusively given, for Congress can no more make Treaties than the PRESIDENT and two-thirds of the Senate can make laws. Do the Legislative powers vested in Congress interfere with the power of making Treaties vested in the PRESIDENT and Senate; and if they do, which shall yield to the other?

When it is said that Congress shall have the power to do certain things, for example, to regulate commerce with foreign nations, it means no more than this, that Congress shall have all Legislative power over this subject, not that the entire power over foreign commerce is given to Congress. Laws, from the nature of the thing, cannot fully accomplish this; they can have no binding force within a foreign jurisdiction. If it be said, that under the general power to make Treaties is not included the power of regulating foreign commerce by Treaty, then there is no power vested in the General Government completely to regulate foreign commerce. Shall it be said, that the Treaty power shall be restricted to the making of such regulations as laws cannot reach, and such only? This is absurd; it would annihilate the Treaty power. For what nation would treat with us, and by compact agree to give our citizens privileges, when our contracting organ had no power to promise any thing on our behalf? From the nature of the thing it must be evident, that the Treaty power must extend to objects which may, under other circumstances, be the foundation of Legislative acts. Treaties do what laws cannot do; but in order to do this, they must extend to some things which laws can regulate, with reference to ourselves. They must, in some small degree, restrict the exercise of Legislative power. Treaties, if made by Congress, would have the same effect precisely. If they are not repealable, all succeeding Legislatures are re-

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strained in the exercise of the power of legislation, by the stipulations which may be in the Treaty. It is not correct to say, that the Treaty power does not extend to the objects enumerated in the 8th section of the first article of the Constitution. It does to most, if not all of them; the hypothesis therefore is inadmissible, that the objects over which Congress have Legislative power are excepted out of the Treaty power; though it is strictly true, that the PRESIDENT and Senate cannot legislate on these objects in the sense in which that term is used in our Constitution.

By way of objection, it is said, that the Treaty-making power is indefinite and unlimited, and therefore the specific powers given to Congress should be considered as exceptions to it, or limitations to the exercise of it. The answer is, that it is ridiculous to talk of excepting Legislative power from Treaty power, for they are different in their nature, in their means, and in their subjects. Legislative power can always act on all subjects proper for its exercise. But it is not strictly true that the Treaty power is indefinite and unlimited. The word Treaty is a technical word, and as certain and definite in its meaning as any word in the language.

The Treaty power is in its nature limited. The PRESIDENT and Senate cannot, as has been already stated, alter the Constitution or change it. Many of the cases mentioned by gentlemen, of the exercise of this power, fall under this exception. There is a natural exception to this power which respects the abuses of it, and which comprehends many of the instances alluded to by gentlemen. In all those cases, though a treaty may have the form of a compact, yet it possesses no binding influence, and the nation must, from the necessity of the case, judge whether the compact be really binding, for there is no common tribunal to which both parties can resort. It has been argued against this latitude given to the Treaty power, and which is no more than the words really import, that a power so broad and extensive may be abused. It may be so, and is not this equally true of all delegated authority? By the same mode of reasoning we might narrow the powers of Congress, for they may also be abused; many of these latter powers are equally indefinite and unlimited, and equally liable to abuse. Mr. S. instanced the power to raise taxes, borrow money, declare war, &c.

It has been further urged, that this construction goes to annihilate the Legislative power altogether, and to render the House of Representatives an useless body. He denied the fact to be so. On the fullest legitimate exercise of the Treaty power there would be much ground for legislation, even on those subjects where the Treaty power was most necessary and would probably be the most employed. He instanced, the making regulations respecting foreign commerce.

As to many of the objects specified in the section containing an enumeration of the powers of Congress, the perfect power of legislation remained. He mentioned the case of a Treaty of Peace. This did not prevent Congress, when there was any sufficient cause, from declaring war, and they

ought not to declare war without such cause. A Treaty may stipulate for the payment of a sum of money; the power and right of appropriation of this money is no more destroyed or lessened than in the case of any other contract made by the Government for the payment of money. Congress may by Treaty be restricted as to some objects of taxation, but as to many they cannot; and no money can be raised without a law for that purpose; it cannot be raised by Treaty.

Mr. S. then proceeded to inquire who, by the Constitution, are vested with the power of making Treaties; or, in other words, whose sanction or concurrence must they receive before they acquire any binding influence over the nation?

He said, he would not enter into the theory of the subject; this was a wide field. Gentlemen might amuse us, but it would afford very little instruction. We were not making a Constitution, but construing one already made. No words, in his opinion, could be clearer than those used in the Constitution, all construction seemed precluded. The PRESIDENT, by and with the advice and consent of the Senate, shall make Treaties, and Treaties when made shall be the law of the land. Not a syllable is said about the House of Representatives. If it had been the intention of the framers of that instrument, to give the House of Representatives any agency in this business, is it not reasonable to presume that intention would have been clearly expressed? Mr. S. then adverted to the argument of a gentleman from Pennsylvania [Mr. GALLATIN] who had discovered this power of the House to interfere in the expressions used in that clause, which declares the effect of Treaties; that Treaties made "under the authority of the United States" shall be the supreme law of the land; and endeavored to show that this did not prove the doctrine.

But it has been said, with some show of plausibility, that the House of Representatives possess this power, because it is of a Legislative nature. But it has been shown that in the sense in which the Constitution uses the words, Legislative power, Treaty power is not Legislative. It is true it bears some resemblance to Legislative power; but is this a sufficient reason for introducing the House of Representatives into the exercise of it? Mr. S. said, if the House possessed this power contended for, there must be some way in which this power was to be exercised. He inquired, what that mode was?

He could conceive of but three modes. By a vote on the Treaty generally; by passing a law declaring it valid, or by means of passing appropriation laws.

It could not be by the first of these modes, for the House could only act on those subjects where power was given to Congress; for they could act only as a constituent part of that body, and in the way pointed out, to wit, a majority of each House possessing a negative on the other, and a qualified negative in the Executive. In this case the powers as well as the mode would be different. The PRESIDENT proposed the act, the consent of two-thirds of the Senate was necessary. Was the House to act

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by a majority or two-thirds? If the sanction of the House is to be given by a law, this absurdity seems to be involved in it, that a law is necessary to give that the force and validity of a law, which the Constitution declares already possesses it. Beside, this law is either repealable or not. If it be said that it is repealable, then it must follow, that, as its existence was necessary to give validity to a compact, its repeal must destroy it, and thus one of the parties can repeal a bargain. If irrevocable, the consequences stated before, of its narrowing Legislative ground, exist in full force as to all future Legislatures.

Mr. S. wished to inquire of the gentlemen who advocated the doctrine, that the sanction of the House was necessary to give validity to the compact, what was the state or condition of the instrument before that sanction was given? The Constitution declares that it shall, when made, bind the Judges in the several States, and the law and usages of nations consider it as made at the time of signing, and complete at the moment of the exchange of ratifications. Is Great Britain at this moment bound by the late Treaty? Will Great Britain be excused from delivering up the posts till they hear that this sanction is given? Suppose they should deliver them up, and then the House should refuse their sanction?

Respecting appropriation laws, at present he would only say, that these laws were always founded on the idea of a pre-existent law or compact already made and valid, and barely made provision for the fulfilling them. It was ridiculous to say, that providing the means of paying a debt or fulfilling a contract, created the debt or gave any validity to the contract which it did not possess before.

He then proceeded to inquire what were the effects of a Treaty when made? From the nature of the thing it must be evident that both parties were bound by it. He contended also, that it must be good for the whole or for nothing. He adverted to what fell from a gentleman from Virginia [Mr. PAGE] that the amity part was good and the rest void. He asked how it was with that part which respected navigation? He believed the gentleman would find it difficult to separate the parts from each other. It is not pretended but that a Treaty of Peace is within the Treaty power, and not within the specified powers given to Congress; yet it is difficult to conceive of such a Treaty, which shall not contain settlement of boundary, &c., these things may be the consideration on which the peace is granted by one of the parties; shall the consideration be void, and yet the peace good? That article which one of the party chooses to consider as void, may have been the only reason, at least among the reasons which induced the making of the other articles, which are to be considered as good. This was strange doctrine. Mr. S. also contended, that a Treaty must abrogate all pre-existent laws contrary to it, from the nature of the thing. He did not derive any argument from the words of the Constitution, that Treaties should be the supreme law of the land; but he insisted as the Constitution had given them the force

of laws, they must have this among other effects, that of repealing former ones, every later law repealed all former ones inconsistent with it. He saw no difficulty in this. The nation by one organ make a law, by another organ they repeal it. Treaties, he insisted, had this effect before the adoption of the present Constitution. He referred to the correspondence between the Secretary of State and the British Minister in proof of this.

Mr. S. said, he would trouble the Committee with one further inquiry only, and that was as to the nature of the check or control which this House have over the Treaty-making power in passing appropriation laws or by any other means. He agreed in opinion with the gentleman from Virginia [Mr. GILES] that the Constitution was full of checks and balances, and therefore he thought we ought not to travel out of it for checks. That we could not add any not to be found in the instrument itself. In this way we might, and he was afraid would, give a check to the wheels of Government, which would make them stand still. He would not say that gentlemen intended this, but he was persuaded this was the effect their measures were calculated to produce. Over Treaties which required no Legislative act to carry them into execution, the House certainly had no control, if the Treaties were of such a nature as to be binding in good faith on the nation. The Legislature had indeed the power to violate them; they could declare war immediately after a Treaty of Peace was concluded. If a Treaty require any Legislative aid, such as money to carry it into execution, to fulfil any stipulation contained in it, the House of Representatives could refuse to give this aid, and the Treaty would be broke by the denial. He admitted there were cases where they could with propriety refuse to fulfill. The cases had been mentioned—unconstitutional Treaties, or abuses of power in any of the extreme cases, were instances of the kind to which he alluded. He would add another case, where the Treaty in the opinion of the nation is broken by the other party, or a disposition to break it is so manifest as not to be mistaken. In every such case the House must judge whether the Treaty be valid or not. The question will not be whether it is a good bargain or not, but whether it is a bargain honestly and fairly entered into. The Treaty, he believed, received all the validity or force it was susceptible of before the House of Representatives could act upon it. Our carrying it into execution added nothing to its validity; our refusing did not weaken the obligation, or destroy the compact, any more than the refusing to pay a debt we justly owe destroys the contract by which the debt has a legal existence. On the question whether the compact was of such a nature as to be binding on the nation, he had no doubt but the House had the fullest and most perfect discretion; instead of saying that we ought to act without discretion, he was of opinion that we had no right to act without it.

The power which he supposed existed in the House, existed in every other department of the Government; it is incorrect to say, that the House

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of Representatives exclusively possess it. Because a Treaty may really be a hard bargain this no more justifies the non-observance of it than an individual can be justified in refusing to fulfil a legal contract more favorable to the other party than to himself. He hoped gentlemen would not take the advice given them, to throw away their discretion. He was of opinion they would stand in need of all they had, and advised them to keep it, and exercise it on all proper subjects. A gentleman from Virginia had insisted on it that he would not part with his moral sense. If some of the opinions which that gentleman had just delivered might be considered as a specimen of his morality, he must say, he liked that gentleman's sense much better than his moral sense.

Mr. S. concluded with observing, that he had taken that view of the subject which appeared to him to be the most proper. The arguments he had used, and the construction he had given to the Constitution, however other gentlemen might view the subject, were such as were perfectly satisfactory to his own mind.

Mr. WILLIAM LYMAN began with remarking, that the gentlemen opposed to the resolution had at first contended, that the House had not a Constitutional right to require papers of the Executive, relative to any subject whatever; and that if a requisition was made, it would be discretionary with the Executive, whether it should be complied with or not.

To this he replied, that the House possessed the power of impeachment solely, and that this authority certainly implied the right to inspect every paper and transaction in any department, otherwise the power of impeachment could never be exercised with any effect. But not to rely solely on this, he recollected one case, he said, perfectly in point, which was in the correspondence of the former Secretary of State [Mr. JEFFERSON] with the British Minister, communicated to the House. From dates and references, there appeared in that correspondence a chasm. The House, therefore, passed a resolution requesting the Executive to lay before them what had been omitted; and further, the resolution in that case was offered by the gentleman from South Carolina, [Mr. SMITH,] who was now so vehemently opposed to the present. The right of calling for papers was sanctioned, he said, by the uniform and undeniable practice of the House ever since the organization of the Government; they had called for papers and information whenever it was judged expedient; and he asserted, that the House had the fullest right to the possession of any papers in the Executive department; they were constituted the especial guardians of the people for that purpose; and he would undertake to say, that this was the first time it had ever been controverted.

However, he should not longer dwell upon this point, as it had been abandoned, nor would he charge the gentlemen with inconsistency in so doing; he thought they acted very judiciously in giving up a position so untenable.

As the authority of the House was therefore admitted, the only question was, whether it should

now be exercised; and this, he said, brought into consideration their Constitutional powers with those of the other branches of the Government, and what limits had been marked to each; to what objects the Legislative powers extended, and within what bounds the power of making Treaties was restrained, and in what manner they were controlled by the Legislative power.

The House would therefore contemplate themselves as sitting and acting in a judicial capacity, to determine the extent of their powers; and as, on the one hand, he trusted that no motives of an overweening partiality to themselves would in any degree influence, to give too great a scope; so, on the other, he hoped they would possess the firmness not to surrender any of those which had been delegated to them. He said, he considered appeals to fears and panics, as made for the want of solid argument; and that all addresses to the passions implied a real fear to apply to the understanding. His passions, he said, he believed, would never be so operated upon, as to overwhelm his judgment, and that all attempts of that sort would be without the least effect. Those attempts to alarm, he thought, might very well be abandoned, as wholly irrelevant; and that then the discussion would be, as it ought, the investigation of truth. If, upon a candid and temperate inquiry, the result should be, that the House had a Constitutional authority to judge of the expediency or in expediency of carrying the Treaty into effect, it must be obvious to every one, that they ought to have the possession of the papers required in the resolution. This must be admitted even by the gentlemen opposed to it; and he did not see, in that case, how they could withhold their vote.

In order to ascertain the powers of the House, he would advert to the Constitution. In the first article and first section, it was declared, "that all Legislative powers therein granted, were vested in a Congress, to consist of a Senate and House of Representatives;" and in the eighth section of the same article, the powers granted were defined and specified, such as to lay and collect taxes, borrow money, regulate commerce, and to exercise other important powers enumerated in the several clauses of that important section. He said it was unnecessary to read them, as they had been so frequently referred to in the course of the debate; but he would request gentlemen to pause and reflect whether it could be supposed that this section was not to be efficacious and operative; was it possibly conceivable that a section so definite and so important had been introduced in the Constitution merely for the purpose of being nullified and rendered nugatory by a subsequent article or section? The very supposition, he said, appeared to him the height of absurdity, and an affront to common sense; and yet this would be the case, if the doctrines advanced were true, viz: that Treaties, when made and ratified by the PRESIDENT and Senate, were supreme law, and that they controlled and repealed all laws that stood in their way. Congress could neither regulate commerce, borrow money, prescribe rules of naturalization, nor legislate on any other subject, because the PRESIDENT

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DENT and Senate, by Treaty, would abrogate them all. It was in vain to consult the House of Representatives in the formation of laws, if they thus were liable to be annulled at the pleasure of the PRESIDENT and Senate. The present question, he said, was not, whether the House should make Treaties, but whether the PRESIDENT and Senate should make laws; all the power contended for on the part of the House was the power of self-preservation; it was a repelling power, a power to prevent the PRESIDENT and Senate, under the color of making Treaties, from making all the laws. A gentleman from Connecticut [Mr. GRISWOLD] had said, that the Legislative power occupied all ground, and was vested in Congress; and that the Treaty-making power occupied all ground, and was vested in the PRESIDENT and Senate; and that although Congress, who were the agents for the people, should make laws, yet, that the PRESIDENT and Senate, who were also their agents, might, by Treaty, repeal them. This, Mr. L. said, contradicted a sound axiom, and one he had never before heard controverted, viz: that it required the same power to repeal as to make a law. Such incongruities as the gentleman had advanced, Mr. L. said, could never be reduced to practice; two persons could not be possessed fully and completely of the same thing and at the same time. The gentleman could never reconcile his positions, the one would certainly defeat the other; upon his construction, the Treaty-making power must absorb the Legislative power, or the Legislative power would absorb the Treaty-making power. This, then, induced the necessity of a different construction. In the interpretation and construction of laws or Constitutions, the following rules had always been deemed sound: First, to regard the true spirit and meaning, and not merely the letter. It was a maxim very ancient, and at the same time very common, that *qui hæret in litera hæret in cortice*; that is, that he who adhered only to the letter stuck in the bark, and never arrived at the pith. Another rule was, to resort to the context or other parts of a law or writing for a true interpretation, and not unfrequently even to the preamble and title, which had very justly and emphatically been termed a window to let in light upon the subject. By viewing certain parts, abstracted and detached from other parts of the same writing or instrument, it might be rendered absurd and contradictory. An example he would offer from the Constitution of the United States: In the second article and third section it was declared, that in case of disagreement of the two Houses of Congress, with respect to the time of adjournment, that the PRESIDENT might adjourn them to such time as he should think proper; but was it supposed that he could adjourn them for two, ten, or twenty years? No, it could not be pretended; for, in another part of the Constitution, it was declared, that they should meet once every year, and that such meeting should be on the first Monday of December, unless they, by law, should appoint a different day or time. Taking both these parts of the Constitution together, it resulted, that in the case of disagreement between

the two Houses with respect to the time of adjournment, that the PRESIDENT could adjourn them to such time only as he should think proper within the time fixed in the Constitution, or by law, for their annual meeting. Even the gospels of Heaven might, he said, by disconnecting and considering only detached parts, be rendered blasphemous. For example: "the fool hath said in his heart there is no God." If only the latter part of this verse or clause should be read, the position would be, that there is no God; whereas, when the whole verse or clause is taken together, it imputes the conception only to a fool.

It appeared, therefore, to him, that Constitutions, laws, and all writings, ought to receive such interpretation and construction as to render them consistent with themselves; and that it was highly presumptive a construction was erroneous when it produced an absurd conclusion. If the several parts of the Constitution were compared and critically examined, the determination must be, that, although the PRESIDENT and Senate could make Treaties, yet it could not be intended, those Treaties that intrenched on the specific Legislative powers of Congress, unless with their concurrence and consent; otherwise, it followed, that, although the three branches were consulted in the enacting laws, two might repeal them. But it had been asserted that this power, insisted upon on the part of the House, was a novel doctrine, introduced merely upon the spur of the present occasion; notwithstanding which, it had been proved by several gentlemen who had spoken upon the question, that this interpretation was given to the Constitution in most of the State Conventions at the time of its adoption; that the same interpretation had also been given at that time, by the writers both for and against its adoption. It had appeared, from the extracts of publications at that period, that whatever might have been the diversity of opinion in other respects relative to the Constitution, that, in this construction, at least, both its friends and opposers perfectly agreed. This principle, then, being thus settled and understood, it remained only to show that it had been invariably admitted and recognised from the first organization of the Government until this time. The first Treaty that had been made under this Constitution, he said, was that with the Creek Indians, in the year 1789; previously to the making of which, the PRESIDENT communicated the subject to Congress; an extract from which communication he would read, viz: "If it should be the judgment of Congress, that it would be most expedient to terminate all differences in the Southern District, and to lay the foundation for future confidence by an amicable Treaty with the Indian tribes in that quarter, I think proper to suggest," &c. Here, Mr. L. said, he wished it might be particularly noticed, that this subject was expressly referred to the judgment of Congress to determine on its expediency or in expediency, and for what purpose, he would ask, was it referred? If the Senate and PRESIDENT possessed the full power of making Treaties, there could be no occasion for consulting the House of Representatives; and yet, in this

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ease, the first that presented itself, it had been conceived necessary. In consequence of this communication, Congress had judged it expedient to hold the Treaty, and on the 20th of August, the same year, enacted a law in which the sum of twenty thousand dollars was appropriated for that purpose; and, in conformity thereto, the PRESIDENT appointed Commissioners and gave them instructions, which instructions had been also communicated to Congress, from which he would also read one paragraph; it was as follows: "You will observe that the whole sum that can be constitutionally expended for the proposed Treaty shall not exceed twenty thousand dollars." On this, he said, any commentary was unnecessary, as the principle that the Legislative power operated to restrain the power of making Treaties, was so fully and explicitly recognised and admitted by the PRESIDENT himself. By pushing inquiry further, it would be found that, in January, 1790, in consequence of communications from the Executive which were referred to a select committee, and a report made thereon, the House came to the following resolution, to wit: "That provision ought to be made by law for holding a Treaty with the Wabash, Miami, and other Indian tribes Northwest of the river Ohio." In March following a law was made, the title of which was "An act entitled an act providing for holding a Treaty to establish peace with certain Indian tribes."

In March, 1791, the sum of twenty thousand dollars was appropriated for obtaining a recognition of the Treaty with the Emperor of Morocco. In March, 1793, one hundred thousand dollars were appropriated to defray the expense of a Treaty with the Indian tribes Northwest of the river Ohio.

Thus it was apparent that laws had always been deemed necessary to provide for holding Treaties and for defraying the expenses thereof. However, still to continue the investigation: in the Messages of the PRESIDENT, on the 6th December, 1794, the following paragraphs would be found, to wit:

"I lay before you a Report of the Secretary of State on the measures taken for obtaining a recognition of the Treaty with the Emperor of Morocco."

"Also, I must add, that the Spanish Representatives now perceiving that their last communications had made considerable impression, endeavored to abate this by some subsequent professions, which being among the communications to the Legislature, they will be able to form their own conclusions."

But this, he said, was not all that might be adduced, from even the Journals upon the Clerk's table, to illustrate the question. In the Report of the late Secretary of the Treasury, Mr. Hamilton, (made to the House on the 6th January, 1791, in conformity to their order of the 15th day of January, 1790,) of a plan for the establishment of a Mint, he would beg leave to notice, for the consideration of the Committee, a few clauses, as follows:

"In order to a right judgment of what ought to be done, the following particulars require to be discussed: 1st. What ought to be the nature of the money-unit of

the United States? 2d. What the proportion between gold and silver, if coins of both metals are to be established? 3d. What the proportion and composition of alloy in each kind? 4th. Whether the expense of coinage shall be defrayed by Government, or out of the material itself? 5th. What shall be the number, denomination, sizes, and devices of the coins? and 6th. Whether foreign coins shall be permitted to be current or not; if the former, at what rate, and for what period?"

Another paragraph was in the following words:

"The foregoing suggestions respecting the sizes of the several coins, are made on the supposition that the Legislature may think fit to regulate this matter; perhaps, however, it may be judged not unadvisable to leave it to Executive discretion."

And another yet, as follows:

"It may, nevertheless, be advisable, in addition to the precautions here suggested, to repose a discretionary authority in the President, to continue the currency of the Spanish dollar, at a value corresponding with the quantity of fine silver contained in it, beyond the period above mentioned for the cessation of the circulation of the foreign coins."

Mr. L. said he would make but one citation more, and that was from a Report of the first Secretary of State, [Mr. Jefferson.] of the 14th of April, 1790, on the letter of John H. Mitchell, reciting certain proposals for supplying the United States with copper coinage. In that Report the Secretary observed:

"Coinage is particularly an attribute of sovereignty; to transfer its exercise into another country is to submit it to another sovereign. In fine, the carrying on a coinage in another country, as far as the Secretary knows, is without example, and general example is weighty authority."

From both these Reports, it was evident, he said, that as the regulation of the coins was among the specified powers of Congress, it was the opinion of the two Secretaries that they could not be regulated otherwise than by an act of Congress; but from the Treaty-making doctrines now advocated, the PRESIDENT and Senate might authorize the currency of foreign coins, or even a coinage in a foreign country. For example, could they not, in the Treaty with Spain, have agreed, that the Spanish dollar should be current in the United States? Certainly they could, if their Treaty doctrines were well founded; if the interpretation of the Constitution now insisted on in the House had depended solely on theory, and unsupported by the multiplicity of precedents on their own Journals. The charge of innovation that had been so constantly sounded by the opposers of the resolution might have created, perhaps, some real apprehensions. But now he thought the world must be convinced, that the principles by which the resolution was defended, were clothed with both Legislative and Executive sanction; that so far from being tenets but of yesterday, they had been generated by the Constitution, and matured and ripened under its operations. To whom, then, did the charges of innovation and usurpation attach? Surely to those who, in the exercise of the Treaty-making power, were endeavoring to aim at the Legislative power. Those were

the new fangled doctrines; they were the tenets of yesterday, and foisted into the Constitution upon the spur of the present occasion. From some researches and inquiries that he had made, he was induced to think that the right or power of making Treaties was of the nature of those rights which had obtained the name of imprescriptible rights; that is, the cases in which it was or might be necessary to treat, were so many and various, that it was impossible to prescribe certain rules antecedent to the case, and that could only be done by the whole people, or by their Legislature. Mr. *Marten*, in his Law of Nations, in speaking of the validity of Treaties, says:

"Anything that has been promised by the chief or his agent beyond the limits of the authority with which the State has intrusted him, is at most no more than a simple promise, which only obliges the person who promises to use his endeavors to procure its ratification, without binding the State, which of course may refuse such ratification. Thus the stipulations of a monarch, though he should be absolute, cannot be valid, if it militates against the fundamental laws of the State, at least unless it be ratified by the nation."

At the Treaty of Utrecht in 1713, which was made with the view of settling the succession to the French and Spanish Crowns, and to prevent their union in the same person, it was considered as an indispensable prerequisite that the letters patent of the Kings of France and Spain, also the Dukes of Berri and Orleans, renouncing and abjuring their several claims and pretensions, should have the Legislative approbation of the Parliament of Paris and the Cortes in Spain. In short, the Treaty-making power was not vested (in so absolute a degree as contended for on the part of the Executive here) in the Kings of France under the ancient Government, or the Kings of Spain and England, countries which had been continually depicted as oppressed and vexed in a manner that forced their inhabitants to seek refuge upon our shores.

Mr. L. then said he would consider a little some of the arguments and objections that had been offered on the other side of the question. The gentleman from Rhode Island, in behalf of the small States, had set up a claim to his construction of the Constitution, in order to preserve individual State sovereignty. To him, Mr. L. said, the argument appeared to stand thus: that small States must possess the means of dissolving large States, to prevent the latter from absorbing the former. That is, to secure the people in their State Governments, you must destroy their rights in the General Government. It would be the case, he observed, upon that gentleman's interpretation of the Constitution, that a small proportion of the people of the United States might make all the laws. The small States, by their representation in the Senate, could dispose of the large States by bargain or contract. It was not a little singular, indeed, that the small States, not content with an equal suffrage in the Senate, should claim the right of wresting all power from the House of Representatives, in which alone the large States had any proportionate weight and influence. It

would have been unnecessary, Mr. L. observed, to have noticed this argument, had it not appeared calculated to excite local jealousies and State prejudices. Certainly the inhabitants of the small States could not possibly have any reasonable fears when they reflected that not only they were represented in the House in proportion to their numbers and population, but also in the Senate equally with the larger States. If any apprehensions were to be entertained, it must be by the latter. But the gentleman from Rhode Island, to confirm his doctrines, affirms, that at the adoption of the present Constitution, in the State of Massachusetts, it was understood in the same sense; as to that fact, Mr. L. said, he would not determine; but this he could say, that the gentleman, so far from finding any countenance for his assertion, would find the contrary in the debates of their Convention. In those debates, one member, Mr. King, said:

"That the Treaty-making power would be found as much restrained in this country as in any country in the world."

Another member, Mr. Choate:

"That as the regulation of commerce was under the control of Congress, it could not be regulated by Treaty without their consent and concurrence."

He would now pass to an objection of the gentleman from New Hampshire, [Mr. SMITH] who had just sat down, viz: that the advocates of the resolution must be wrong, because they disagreed in their own interpretation. Possibly, he said, every one might not have given the same exposition; it was not always so easy to state what we would, as what we would not have: there was, nevertheless, no diversity of sentiment; at any rate, they were agreed in one thing at least, that the construction of that gentleman was wholly wrong.

Mr. L. then said he would advert, for one moment, to the assertion of his colleague, [Mr. SEGWICK] "that confidence in Government ought to be unlimited." This, he said appeared to him to induce another consequence, viz: that of passive and absolute obedience. It was, in fact, the revival of the long exploded doctrine of passive obedience and non-resistance; and, although such tenets might constitute a claim or pretension to the confidence of some Governments, he hoped it was not yet the case in this, and that such sentiments would never be prevalent here; for it was his opinion that there never either had been or would be a Government perfectly pure and uncorrupt, without a little watchfulness and even distrust, and that societies oftener discovered too little than too much. There was a natural effort in all societies to confer power and wealth on a few, at the expense of the many. This tendency the most required to be counteracted; from this quarter danger was first to be apprehended, and not from another, as had been contended. Popular branches and assemblies never usurped, they never encroached on other departments, until they were challenged, and even forced to the conflict, by some inordinate attempts for power. Every department should, then, exercise great caution and modera-

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tion not to excite and provoke jealousies and discontents, that possibly would issue in resistance.

He should make but a few remarks more, as it was now considerably later than the usual time of adjournment. The remarks were relative to the late Treaty; not indeed whether it was a very bad or good Treaty, for that was not now the question before the Committee; but that the Treaty itself recognized the principle he was contending for. He then read from the 12th article these words: "that during the continuance of this article, the United States will prohibit and restrain the carrying molasses, sugar," &c. Why, said Mr. L., is this language and phraseology used? Upon the principle of the unlimited power of making Treaties, and that they repeal laws, the language and phraseology ought to have been thus: the United States *do* prohibit and restrain; or, it is hereby prohibited and restrained. It was, he said, unnecessary to reply, for the Minister who negotiated the Treaty, well knew that he possessed no such authority. He knew that from the source he derived his appointment no such power could flow. Mr. L. said that he hoped, therefore, that the resolution would be agreed to by the Committee, and that it would pass in the House; for, as they would be obliged to discuss the Treaty to which the papers mentioned in the resolution related, it was necessary they should be possessed of all the information, and have the whole subject before them. And he declared, that although heretofore he had entertained sentiments very unfavorable to that instrument, yet, notwithstanding, if any papers or arguments could explain either the policy or necessity of acceding to the measure; if it could even appear that although there had been sacrifices very important on the part of the United States, yet that they were rendered inevitable by the necessities of our situation; if it should be evident that the terms and conditions on which we now stood with other nations compelled us to find a shelter in a compact of this sort, he must give his vote for carrying it into effect: but if, on the other hand, it should be found that the Treaty was neither promotive of our interests nor imposed by necessity, it never should, with his consent, have any operative effect in this country, while his exertions could prevent it.

MARCH 17.—In Committee of the Whole, on Mr. Livingston's resolution.

Mr. REED said, he saw no necessity for the papers referred to in the resolution. If the constitutionality of the Treaty should be questioned, or the propriety of making appropriations, these questions, he conceived, must be determined by comparing the Treaty with the Constitution, and by attending to those stipulations contained in the Treaty itself.

It was not his intention to have troubled the Committee by speaking on this occasion; but perceiving that some gentlemen, in the course of the debate, had gone further into the opposite extremes than he was prepared at present to follow them, he felt as if he ought to express his own sentiments with regard to the Constitutional rights of

that House relative to the Treaty in question. The Treaty was undoubtedly negotiated, ratified, and promulgated by Constitutional authority. The President, with the advice and consent of two-thirds of the Senate, was, in his opinion, unquestionably that authority which the United States had authorized to make Treaties. But still it seemed taken for granted that some agency of that House, in its Legislative capacity, would be needed in order to carry the aforesaid Treaty into effect. A question, therefore, arose, viz: Was that House, in all such cases, bound and obliged to put so implicit and absolute a confidence in the Executive or in Treaties as would render it entirely unnecessary to have any opinion of their own about them, or the probable consequences of their operation? For his part, if he had never seen the Treaty in contemplation, and were perfectly ignorant of its contents, or, if he fully believed, as a citizen, that it was unconstitutional, or calculated to ruin, or very materially injure the country, he should not think himself justifiable in voting to appropriate money for the purpose of carrying it into effect. It had been conceded by gentlemen that if a Treaty were evidently unconstitutional, it would not be wrong to withhold appropriations; and he conceived that a Treaty might possibly be so injurious in its effects as to justify such a measure. Supposing such a possible event should ever actually happen, did not the right of refusing to legislate in support of the said Treaty involve the right of previously examining all Treaties which need the aid of the Legislature, and of judging for themselves whether it would be proper or improper to make laws for the purpose of carrying them into effect?

In making Treaties the Executive would use his own discretion, keeping within the limits prescribed for him by the Constitution. In making laws the Legislature must use their own discretion, always keeping within those limits and bounds which the Constitution had fixed for them. He said, the discretionary right here contended for was not the right of doing wrong; it was not the right of violating the Constitution; it was not the right of supporting a Treaty which ought to be defeated, nor of defeating a Treaty which ought to be supported; but, simply the right of judging for themselves, whether they ought, by their own act and deed, in the character of legislators, to appropriate by law such sums of money as would be needed in order to support an existing Treaty, all things and circumstances relating thereto being suitably examined and properly considered. Perhaps it would be objected, that the Constitution no where expressly gave the legislators that right. He answered, the right was not precluded, but implied, and, in some respects, evidently one of the original and essential rights of man; a law of nature, prior and superior to all other laws; a law never to be transgressed in any station whatsoever. Individuals, in many cases at least, had a right to exercise their own discretion with respect to the propriety of submitting to a civil law or of risking the penalty, the consequence of disobedience; and, as a branch

of the Legislature, he believed they had a right to deliberate and consult among other things, the expediency and duty of making or of refusing to make appropriations, even in the case of a Treaty. It appeared to him that, in legislating, the Legislature should have this right of judging for themselves with respect to the propriety of making or refusing to make any law whatsoever. In most cases their duty would perhaps appear plain and obvious, particularly in the case of appropriating money where a law or Treaty actually existed. However, the obligation did not arise wholly from the circumstance of an existing law, but partly from the nature, reasonableness, and tendency of the thing itself.

A Treaty negotiated by Constitutional authority was, he contended, a solemn compact between two nations. It was an important consideration; but he thought they might, with propriety, attend to other considerations, for and against it, especially when their own aid was required, in order to carry it fully into effect. This he conceived was the right of the House, and no encroachment upon the prerogative of the other branches. An appropriation was a specific sum, appropriated by a particular law to a particular purpose.

The right of appropriating the public money was not a natural right, but a right derived from the Constitution; and the Legislature was to exercise that right according to the honest dictates of their own best discretion; excepting those instances in which they were expressly restricted by the Constitution itself, as in the cases of compensation for the services of the President of the United States, and for the services of the Judges. Congress might deliberate and act discretionally in stating at first their salaries.

With respect to the Judges: if after their salaries had been stated they should be deemed insufficient, Congress has a discretionary right to increase them; but the Constitution said they should not be diminished during their continuance in office. With respect to the President's salary, Congress had no discretionary right to make any alteration; for the Constitution said it should not be increased nor diminished during the period for which he was elected. With regard to compensations and appropriations in general, wherein there was no restriction or limitations, the whole affair seemed left to the direction of those whom the Constitution had authorized to transact such business. He said, the case of an existing establishment of law might be a very good reason why each branch of the Legislature should deliberate and decide with peculiar caution; but, as the Constitution no where expressly said that appropriations should be made in all such cases, and as mankind had a natural right to alter their opinion or differ from others, each branch of the Legislature had a Constitutional right of judging for themselves, and of making appropriations according to the dictates of their own honest judgment.

He said, it was acknowledged by all that the Constitution was their rule, but still some difficulty remained, for different persons understood and explained the Constitution, in some instances, very

differently. There was often an unavoidable ambiguity and obscurity in words made use of to express certain definite ideas. New and unexpected cases would frequently occur. The best definitions would soon need defining. There was no other way, therefore, but for every one to investigate and understand the Constitution for himself, and to follow that construction which appeared to him, upon the most careful examination, to be the true and proper meaning.

He said, with respect to the Treaty in contemplation, there were many petitions on the table, some in favor and others against its being carried into effect. When the Treaty, therefore, came under the consideration of the House, gentlemen would undoubtedly be able to judge for themselves with respect to its constitutionality, and the propriety of making appropriations, by comparing it with the Constitution, and by attending suitably to those stipulations which it contained.

Mr. TRACY said, he felt a diffidence in giving his sentiments in that House, which was much increased when he considered the ability with which the question had already been discussed, and the length of time it had consumed; but the magnitude of the question would justify him, in his own opinion, for asking of the Committee to indulge him with a small portion of their time and attention.

This was the first time, since the adoption of the present Government, that a discussion of the important Constitutional question of the extent of the Treaty-making power could have taken place, as it respected a foreign nation; and, of course, would probably form a precedent for all future inquiries of a similar nature.

The call for papers contained in this resolution was new and delicate; the papers were ordinarily considered as of an Executive nature; and ordinarily it would be agreed, on all hands, the House of Representatives had no right to them. Ought not then a call of this extraordinary kind to carry on its face the special reasons which induced it? He asserted that the object of the resolution was new, although it had been said it was similar, in point of principle, to that of calling on Heads of Departments for papers and documents to assist the House in Legislative business, which he contended was not a correct idea. The House certainly had a right to call for any papers or statements from its officers, created under the laws, which it had participated in making. No former practice or decision of the House could give a lead in this case; and were there no Treaty made with a foreign nation, now before the House, no gentleman would pretend there existed a right or propriety to call for the papers in question. He objected to the form of this resolution: it is a request for all papers, such as may be secret in themselves, and may affect future negotiations; the only discretion left to the President is such papers as may relate to any present negotiation. If a requisition of this kind could be ever justifiable, it certainly would be proper to accompany it with precise and specific reasons, stating the real objects.

A Treaty, said to have been made with Great

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Britain, had been committed to a Committee of the Whole House on the state of the Union. If, when that matter should be taken up, all parties should be perfectly satisfied with the Treaty, and no laws should be necessary to carry it into effect, and none to be repealed, would any person pretend we wanted these papers? If, when that period should arrive, the House judged a declaration of war or impeachment of the negotiator was expedient, he would not say, a call in substance like the present, but in form specifying its exact object, might not be proper.

But, if the present call was proper, it could be so only on the ground that the House of Representatives had a right, in their official capacity, to examine a Treaty in its passage, before it became a Treaty with binding force.

To examine it as a constituent power, without whose sanction it can have no validity. This right in the House of Representatives had been claimed; and, if this was a just definition of their right, and once became established, he agreed the call contained in the resolution would be completely justifiable. It has been said, a publication of those papers was necessary to allay public ferment. If so, specify the intention in the call. But the opinion of the PRESIDENT might in this view of the subject, be safely trusted. There could be neither necessity nor propriety in the House going to the PRESIDENT with information that a Treaty he had formed was unpopular, and advise him to take measures, by publishing papers, to allay the fermentation; or, with a kind of compromise, such as, if you will let us see your papers, we will carry your Treaty into effect. On such ground he thought him justifiable in pronouncing the call impertinent.

The Constitutional rights of the House of Representatives to interfere with Treaties, might properly be considered in two points of view:

1. Had they a right to assist in the formation of Treaties in such a manner as that a Treaty would be incomplete without their sanction officially given? And,

2. Had they a right to refuse appropriations of moneys, (if necessary to carry into effect some provisions in a Treaty,) and in that way defeat its operation?

He acknowledged, if the first position could be supported, the right to call for the papers would be conclusive; but, he contended, they could not be wanted on the latter ground.

If the Constitution was examined, it would be found the Treaty-making power was given to the PRESIDENT; and no interference, or right given to any other men or body of men, but to two-thirds of the Senate, and that by way of consent or advice. Could it be pretended there was a shadow of authority given to the House of Representatives?

In the Constitution it is said, "all Legislative powers herein granted shall be vested in a Congress," &c. Would it be pretended, had the Constitution gone no further, that the then thirteen independent sovereign States, by that part of it, had parted with the Treaty-making power? No!

they reserved a great share of Legislative power to themselves, and delegated to Congress only in certain cases, best calculated, in their opinions, to advance their own happiness; and unquestionably reserved every right, power, and sovereignty, which they did not expressly give away by the Constitution itself. The powers of legislation are the powers of making statutes in all cases respecting men and things within the jurisdiction of the Legislature; but it could by no means in its nature comprehend the Treaty-making power, which is the power of contracting or making bargains in the name of a nation, as a moral person, with another nation or moral person, for their mutual benefit, and to be binding and operative on them, as parties to the contract or bargain. And although this had binding force on the nation, when once formed and completed, yet it was not a Legislative act. But the Constitution went further: it had actually designated the PRESIDENT, with the advice of the Senate, to be a Plenipotentiary for the formation of Treaties. *Vattel*, page 179, speaking of the various customs of nations, in the deposit of this power, says:

"All conductors of States (meaning the Executives) have not the powers, of themselves, of making public treaties: some are obliged to take the advice of a Senate, or of the Representatives of a nation. In the fundamental laws of each State we must see what is the power of contracting, with validity, in the name of a State."

He supposed by "fundamental laws," *Vattel* must mean the Constitution of a State; if so, it will not follow that the supreme Legislative or executive power of a State, as such, have necessarily the power of making Treaties; it might be, and in most countries was, an object of precise delegation, and probably always, or certainly more commonly, given to the Executive. This Constitution had precisely given it to the Executive, subjoining the advice and consent of the Senate; and in this particular, and in no other, had the individual sovereignties delegated all their power without limitation. It was necessary and proper this power should be lodged somewhere, and equally necessary it should be entire and unlimited, to meet every exigency that the welfare of the nation might require. It had been said, that general expressions of power would be limited by specific: this was a general truth, but he denied the application which had been attempted. It was said, the Treaty-making power is a general power; the Congress has a specific power to regulate commerce, &c. Of course, the specific power to regulate commerce will check the operation of a Treaty of a commercial nature. He said this part of the subject had been so ably and conclusively managed by a gentleman from New Hampshire, yesterday, [Mr. SMITH,] that he would not exhaust the patience of the Committee by going over the same ground. He would however observe, that by the common rule of construction, all the powers given to the PRESIDENT which could, and in their nature would, check or operate on legislation, must be considered as a specific portion of power carved out of the general power given in the former

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part of the instrument. The general powers of legislation first given to Congress, and in the next place specific powers given to the PRESIDENT, could not fail to lead the mind directly to such a construction. "All Legislative powers, &c., are vested in a Congress," but the PRESIDENT has a qualified and specific check. Power to regulate commerce with foreign nations is vested in Congress, yet the specific power of contracting, bargaining, or making a Treaty, is, so far forth as it may touch Legislative points, a specific check upon it. Yet he acknowledged this was not his chief reliance. The nature of the case was such, that whatever internal regulations, or those relating to external and foreign commercial subjects, which may have become objects of Legislative attention, oppose or come in competition with a contract or bargain about the same things, must give way. It does not exclude legislation from the object of foreign commerce, but establishes certain points within which it shall operate, and which it cannot violate. The thirteen sovereignties possessing all the power, gave to Congress a certain portion of Legislative authority; but they certainly could give to the Executive, or any other body, the power to make Treaties. This he contended they had done, by the words of the Constitution, in an unlimited manner.

If we were to travel out of the Constitution to support any opinion, he urged the old Confederation in support of his construction. In that Constitution, almost all the commercial power was retained by the States. An explicit article was inserted, that all powers not expressly given, were by the individual States retained. The power to make Treaties was there directly given to Congress, with a proviso, which would show plainly that the authority to make Commercial Treaties was meant to be given.

The words of the ninth article are: "The United States in Congress assembled, shall have the sole and exclusive right and power of determining on war," &c.—"entering into Treaties and alliances, provided that no Treaty of Commerce shall be made," &c.—adding a restriction which acknowledges the general power to extend to Commercial Treaties. A similar construction to the one now contended for would have left the co-operative power with the State Legislatures. This, some of the Legislatures supposed they did possess, if we were to judge from their public conduct. But the sound and correct opinion, he thought, was clearly as he had stated. To enforce this idea, he quoted Mr. Jefferson's correspondence with Mr. Hammond, pages 48, 49, and 50; from which, he said, it appeared that the opinions of the best informed men in almost every State concurred in the construction of Treaties being supreme in their operations, and paramount to the laws of any or all the States. He then quoted the proceedings and resolutions of Congress on the same subject—two resolutions passed March 21, 1787; a circular letter sent to the Executive of each State, dated April 13, 1787; and a resolution passed October 13, 1787, respecting a law passed in Virginia, in contravention of the second article of the Treaty

with France. He said, the following idea was universally to be found in all these proceedings in substance, and more than once in words, viz.: "When a Treaty is constitutionally made, ratified, and published by us, (Congress,) it immediately becomes binding on the whole nation, and super-added to the laws of the land, without the intervention of State Legislatures." He supposed nothing could be more natural than for the framers of the Constitution which is now in operation to give at least as much force to Treaties as was, or ought to have been, given under the old Confederation; for which reasons they gave the Treaty-making power most explicitly to the PRESIDENT, with this only check of advice and consent of two-thirds of the Senate: and added in the sixth article, that when Treaties were made under this authority, they should be the supreme law of the land.

The idea suggested by a gentleman from Rhode Island, [Mr. BOURNE,] that this power of making Treaties was, by the framers of the Constitution, meant to be placed out of the House of Representatives, on account of the jealousy of the small States, was undoubtedly just. Thirteen sovereignties were about to deposite the most important of their concerns in hands which, in their opinions, would first promote their happiness. The sovereignties were equal, as each State was completely sovereign and independent, and the quantum of sovereignty brought into common stock was, notwithstanding any Territorial difference or inequality of numbers, equal; therefore, as the Treaty-making power was considered an act of sovereignty, the States were all to participate equally in it, by force of their equal representation in the Senate. He said, personally he could have no such jealousy, as the State of Connecticut, which he had the honor with others to represent, was singularly situated—holding just the same proportion in the House of Representatives as she did in the Senate—one-fifteenth part of the whole. If any proof could be necessary, he thought the almost unanimous understanding of the members of the different Conventions in the States, who were called to discuss the Constitution for adoption, was in favor of the construction he had given: that a Treaty, when made by the PRESIDENT, with the advice and consent of two-thirds of the Senate—ratified and promulgated in the usual manner—was complete, without any assistance or co-operation of the House of Representatives.

To this point, he quoted the Debates of the Virginia Convention, vol. 3, page 89. A gentleman, active and eminent in that body, says, speaking of that part of the Constitution which defines the power of making Treaties—

"The Representatives are excluded from interposing in making Treaties, because large popular assemblies are very improper to transact such business, from the impossibility of their acting with sufficient secrecy, despatch and decision, which can only be found in small bodies; and because such numerous bodies are ever subject to factions and party animosities. It would be repugnant to Republican principles to vest this power in the President alone; it is therefore given to the President and Senate (who represent the States in this indi-

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vidual capacity) conjointly. In this, it differs from every Government we know," &c.

He acknowledged, that, from such debates, the real state of men's minds or opinions may not always be collected with accuracy; but he was induced to quote the above in this part of his argument to show that whatever might have been thought by the members of that Convention to be checks on the operation of Treaties, by virtue of the power of withholding appropriations, yet no one took such extensive ground as is now contended for by some of the supporters of the resolution under consideration. The principal objection to the Treaty-making power in that Convention seemed to be grounded on a fear that Territory might be ceded by the PRESIDENT and Senate without the consent of the whole Legislature. Consonant to this idea is the amendment agreed to by the Convention: For in that they connect the House of Representatives with the PRESIDENT and Senate, in forming all Treaties which are to cede Territory. But in another sentence of the same amendment, when they mention Commercial Treaties, they only wish to add, that two-thirds of all the Senate shall consent, and not two-thirds only of those present. It had been said, that the Constitution was similar to that of Great Britain in the part respecting Treaties. This, he contended, was an incorrect statement: in his opinion they were very different. The Constitution of Great Britain was formed almost entirely of usages. It had been, for a great length of time, the usage for the King to lay before Parliament, for their approbation, Treaties—especially those of a commercial nature. If this was a usage, all that could be said of it was, that it was a part of their Constitution. He supposed this right had been given by the Crown, at some time, to obtain a grant of money; but he could not recollect that the Parliament, with all their pretensions to a right of rejecting Treaties, had ever exercised it. They generally made a pretext of dislike to a Treaty to change the Administration. This had been often done: it was on the Treaty of Peace of 1783. The Treaty of Utrecht, which was concluded in 1713, had been cited as an instance of rejection by the British Parliament. It was a fact, in that instance, that nothing was rejected but a conditional Treaty. In forming the Treaty, there were many distinct parts: one part of it was a Commercial Treaty between England and France, separately signed, and conditional—that is, "within the space of two months after a law shall pass in Great Britain, whereby it shall be sufficiently provided, &c., the general tariff made in France, &c., shall take place there again, &c." The law did not pass in Great Britain, and of course the Commercial Treaty failed. Mr. T. said he had searched all the Treaties made by Great Britain since the Treaty of Munster, which, if his memory was accurate, was concluded in 1648, and could not find an instance of the Parliament's refusing their assent to a Treaty made unconditionally; and he really believed, if they practised fully on the right they claimed, it would very soon destroy their Government. It had been said, *Blackstone* in his Commentaries

had defined the powers of the King of Great Britain to be unlimited in the making of Treaties. He observed, that, let *Blackstone* or any other Crown lawyer say what he would in favor of prerogative, it was well known the usage had been to submit to Parliament the consideration of Treaties, and that usage was a part of their Constitution; and he rejoiced, that in that particular the Constitution of his country was different. Gentlemen had said, Shall this House not have as much power respecting Treaties as the House of Commons in Great Britain? This question was both improper in itself, and calculated to mislead. Were we in Convention, and forming a Constitution, it might have weight; but in a cool discussion of a Constitution already formed and adopted, and the question is, What powers are given? it could not be proper. And it ought to be remembered that Parliament, and not the Commons alone, had this right in Great Britain. In defining the relative powers given by the Constitution, there was danger of the popular branch making encroachments on the other branches, under pretence of favoring the liberties of the people. This pretence, however grateful it might sound in debate, he thought was but a pretence. It was the duty of the House to make a stand against all encroachments on their own rights, if any were attempted, but it must equally be their duty to exercise great caution not to encroach on others. He said, he considered the responsibility which was so very necessary on those in the exercise of the Treaty-making power could not exist if it was extended to the House of Representatives.

The remarks of the gentleman from Virginia, [MR. GILES,] that he, and those who advocated the same opinions, by constant association and thinking on one side only, had become, like pulpit reasoners, inattentive to the weight and force of what might be said in opposition, might be just in application to himself; for he acknowledged he had been accustomed to hear but one opinion on this subject; and from the first appearance of the Constitution to this time, it had been a uniform opinion with him, and those with whom he generally associated; and he confessed he could not retort the observation on the gentleman, for the opinion advanced by him was a new one, and probably the gentleman had not been in habits of hearing it often declared or advocated. He thought it singular that, in a discussion of this nature, there should be a resort to the British Constitution, and still more so, that a very exceptionable part of it should be claimed. Could any man seriously wish that Treaties, generally made in some critical period of national affairs, after being settled with a view to existing circumstances, should in a length of time afterwards be subject to the consideration of any other branch of the Government who could not know many of the motives for a particular cast it may have? Those who thought with him on this subject, he said, had been accused of a design to give up the exercise of rights properly vested in them by the Constitution to the PRESIDENT and Senate, and this was called sacrificing the rights of the people. He

thought it not the first time he had heard a struggle for power, dignified by the name of a virtuous attempt to protect the liberty of mankind. Could it be supposed that he or any other man could wish to resign rights given by the Constitution? Power, it was said, was intoxicating; but it must be a singular operation of the human mind, under the fascinating influence of power, to seek every opportunity to give it up, and become a slave. He wished gentlemen to apply their own maxim of the intoxication of power to the present struggle, and discern on which side its influence will most probably carry them. He asked why a parallel was drawn between this House and the British House of Commons?

In that country, the immediate representatives of the people had been for a long time obtaining privileges from an hereditary Executive and nobles, which by them had been usurped. In this country, the Executive and Senate were the representatives of the people, possessing powers exactly marked out and defined by a written Constitution; and the attempt to give an alarm against the despotism of the PRESIDENT and Senate, by comparing them with King and Lords, could not, on any principle, be proper, delicate, or justifiable.

He had often heard before he came into the Government and since, that we had a Constitution, giving portions of power, exactly defined, and that if we thought it might even become beneficial to the people, to take a constructive latitude, in the exercise of power, yet to step off of the written and defined limits given us would be improper in the extreme: this doctrine, although used on occasions, which in his opinion were inapplicable, was weighty and important. He asked gentlemen to reflect in what way this power, now contended for, was to be obtained? Was it found in the Constitution, or by a construction, which, if not directly in violation of terms, was nearly so?

He said, that a writer, under the signature of *Publius*, in a series of papers called the *Federalist*, had been quoted as favoring this doctrine of associating the House of Representatives in the formation of Treaties. He said it was an unfounded assertion: what that author had said upon the subject was contained in two chapters; the first begins with page 201, and the other in page 272, both of the 2d vol. He requested gentlemen to read those two chapters, and he was much mistaken if all would not acknowledge that the opinions of the *Federalist* were not to associate the House of Representatives with the PRESIDENT in the making of Treaties. What was said in page 133 of the same volume he would notice in the other branch of the argument.

But gentlemen had said, if this extensive right must be abandoned, yet a constitutional check remains with the House of Representatives, to defeat all Treaties, which may require appropriations of money to carry them into effect. If this was called a right of co-operation in making Treaties, he did not understand it; to say, a payment of a debt was part of a contract, and a refusal to pay made void a contract was to him perfectly unintelligible. He considered a Treaty a bargain

or contract complete, when made by the PRESIDENT and Senate; and if money was necessary to carry it into effect, it did not invalidate the contract to refuse an appropriation; it was only saying the nation had made a contract, and then refused to fulfil. He requested a few minutes' indulgence on the subject of appropriation, which was the second and last view he had proposed to take of the subject.

Gentlemen had exclaimed, with some warmth, "Are we to be machines perfectly at command of the PRESIDENT and Senate; and are appropriations to be made without exercising any discretion?"

He considered this House, in all Legislative acts, to possess a full and unlimited discretion, with some few exceptions, which he would point out. A bill comes under the consideration of this House to establish trading-houses with the Indian tribes. Full and perfect discretion to accept or refuse is certainly vested in this House. Suppose they, in concurrence with the other branches, pass the bill, and employ an agent, with a promise contained in the same bill to pay him one thousand dollars for certain services, and this agent renders the services and produces his account, it is well known he cannot be paid without an appropriation by law. Can any man say, that, in considering the bill of appropriation, a complete discretion is left to pass or not? Would it be called a correct idea to assert that a man was possessed of full and complete discretion to embrace truth or falsehood, after both were distinctly held up to his view? Would not the truth force his acceptance? Suppose there was a clause in the Constitution subjecting the United States to a suit, and suppose a suit instituted and judgment rendered against them, would this House say, before we appropriate moneys to pay this judgment, we will look into the merits of the case, and if the decision is not, in our opinion, grounded on proper testimony, we will refuse an appropriation? Or would they say, the sum of the judgment has now become an obligation on us, declared to be such by the constituted authority, and we are bound in good conscience and by the rules of morality to appropriate? The salaries of the PRESIDENT and Judges had been acknowledged to be situated by the Constitution itself in such a manner that we are bound to appropriate. He considered all Constitutional obligations, and those arising from laws and Treaties constitutionally made, on the same footing. He said there was now a Treaty concluded with the Dey of Algiers contracting to pay him an annuity of 12,000 sequins. Suppose, ten years hence, the House of Representatives should not think proper to appropriate this sum, war would be the consequence, and in this exercise of discretion, as it was called, one branch of the Government would have it completely in its power to declare war. The difficulty would not rest here; for by taking this ground the Senate will have the same power of refusing appropriations, and they exclusively make war; whereas the Constitution has given that power to Congress, with a view that each House should be a check

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on the other. If the House should believe at any time it was better to go to war with the Algerines than pay the annuity, their duty would be to institute a bill of the kind; if the Senate agree, a Treaty can undoubtedly thus be annulled; but if the Senate negative the bill, the duty of this House would become very strong, if not irresistible, to appropriate.

Mr. T. said he would not detain the Committee any longer than to hint at what was said of a sentence in page 133 of the *Federalist*, which is—“And although the House of Representatives is not immediately to participate in foreign negotiations and arrangements, yet, from the necessary connexion between the several branches of public affairs, those particular branches will frequently deserve attention in the ordinary course of legislation, and will sometimes demand particular Legislative sanction and co-operation.” He conceived that laws might become necessary in the various exigencies of a Government in consequence of Treaties being made that might be called sanctioning them, and yet not so immediately connected with them as to preclude a full or nearly a full and complete discretion whether to pass them or not; but he could not agree that in the act of appropriation which might be the only desideratum in a Treaty, that a full and complete discretion to appropriate, or not, was left to any one or all branches of the Government. He acknowledged if a Treaty was unconstitutional, it was not then a contract of binding force, and of course contained no obligation of any kind whatever; if a Treaty was so terrible in itself, and manifest consequences ruinous to the nation no argument could be drawn from such a statement to establish general rules. The moral law had said, we shall not kill, and yet a man may be placed in such a situation, as that he not only may but it becomes his duty to kill; could it be said a general right to kill is proved by this concession? But could gentlemen seriously say, we now wanted these papers, mentioned in the resolution, to assist us in determining upon the question of appropriation? He thought not. He supposed the first extensive and unlimited right of interfering in the making of a Commercial Treaty could alone justify the call, and he believed that ground must be given up. He said his colleagues [Messrs. SMITH and GRISWOLD] had asserted no other doctrines than such as he now advocated, and yet they had been accused of saying that this House had no will of their own, but must in all cases implicitly obey the PRESIDENT and Senate. The construction he had given to the Constitution he believed to be just, and trusted he could be under no necessity of declaring the purity of his intentions, as he did not doubt but every member of the House was guided in the investigation by the purest motives.

Mr. S. SMITH said, that at the present state of the discussion, little was left but gleanings, and to hear testimony against a doctrine that appeared to him big with consequences fatal to the true interests of the country. He would not pursue the sophistry of the gentleman last up [Mr. TRA-

cy] through all its windings and turnings; he would only observe that the gentleman had read some, and quoted much to prove that Treaties were the supreme law—a doctrine that was admitted by all, that is, when under the authority of the United States. He also had taken much pains to convince that a contract being by authority of Congress for 1,000 dollars, money ought and would be appropriated to pay the contractor. Does any one deny this to be sound doctrine? Yet he thought he had seen conduct which might be construed against it.

He said the resolution requested certain papers to be laid before the House. What had been the custom of the House heretofore? Invariably to ask for all and every paper that might lead to information. He well recollected that, in 1793, a great ferment had arisen in the public mind in consequence of the Proclamation of Neutrality, (which had always appeared to him to be a wise measure,) that on the meeting of Congress a great number of useful papers relative to our situation with respect to foreign nations were submitted, some of them of a most confidential nature, relating to Treaties then depending, particularly that with Spain. The PRESIDENT was not afraid to place his confidence in that House, and he was right; the public mind was restored to quiet, and the people of Kentucky (then restless) were satisfied that the Executive were doing every thing in their power to obtain the free navigation of the Mississippi. The PRESIDENT went farther; he sent a special agent to Kentucky to communicate to that Government the line of conduct then pursuing for their welfare. Had the public mind been less disturbed on the late Treaty than in 1793? He thought not; and that every paper which would tend to satisfy that the Treaty was expedient, or to give information on a subject that must be discussed before that House, might with propriety be asked for.

A gentleman from Vermont [Mr. BUCK] repeated by another from South Carolina [Mr. SMITH] said, to vote for this resolution would be treason against the laws and Constitution. Why this harsh language? Did it lead to a discovery of truth? Where did these gentlemen find that definition of treason? Not in the Constitution, for there it was properly defined.

A gentleman from South Carolina [Mr. SMITH] had said, that none of the various town meetings, relative to the Treaty, had asked for papers; the various Legislatures who had judged of the Treaty, had they requested papers? Did the gentleman mean this as good reason why that House should not ask for them? If he did, it was certainly argument not worthy of refutation. Another gentleman from South Carolina [Mr. HARPER] had said, the House might institute an inquiry into the conduct of the Envoy; and he challenged the opposers of the Treaty on that ground, it may investigate the Treaty itself. Mr. S. would ask, whether the papers were not necessary to such inquiry and to such investigation? The same gentleman said, that if these papers were necessary, he would demand them as a right, not

ask for them in the milk-and-water style proposed. Here the gentleman felt bold. But this has not been the custom. It had been usual, and he hoped always would be, to approach the Chief Magistrate of the Union with proper respect and decorum. To ask for the papers (he added) was unconstitutional, because unnecessary; he might as well have endeavored to convince by saying, it is so, because it is so. A gentleman from Connecticut [Mr. GRISWOLD] had opposed the passing of the resolution in a masterly manner. He had never, at any time, listened to any man in that House with greater pleasure than to him; but, upon re-examining what he heard, he found the merits of the orator lay in the ingenuity, not in the strength of his reasoning.

From the papers, Mr. S. said, gentlemen had taken a ground that appeared alarming, viz:

That the PRESIDENT and two-thirds of the Senate may, by the aid of a Treaty, do anything, and everything, not morally impossible, (provided they do not infringe on the Constitution,) and that the immediate Representatives, forming this House, have only to be informed thereof, and to obey.

Let us pause for a moment, and ask, Was this possible? Could this be the fair construction of our so much boasted Constitution? If it should be, he would not regret the services rendered his country during the late glorious Revolution, nor the part he had taken to promote the adoption of the Constitution; nor would he, by inflammatory speeches within, nor his actions without doors, do anything that should tend to destroy the harmony then subsisting, or to disunite a people whom nature and relative wants seemed to have connected together; but he would endeavor, in a Constitutional manner, to obtain amendments to the Constitution, which would prevent the evil in future. But is there occasion for amendments to the Treaty-making power? He thought not. There were checks and balances sufficient in the Constitution to prevent the evils that might arise out of it. He said, he could offer nothing new, but would pursue the train of reasoning begun by a gentleman from Virginia [Mr. MADISON.]

In the eighth section of the first article of the Constitution, Congress have power to lay duties, &c., &c., but all duties shall be uniform throughout the United States:

Can regulate trade with foreign nations:

Can establish a uniform rule of naturalization.

Congress, then, although they have the power to lay taxes and duties, and to make laws of naturalization, are bound to make them uniform; and in another article, are prevented from giving a preference by any regulation of commerce or revenue to the ports of one State over those of another. But the Treaty-making power is not so confined; it may relieve one of our ports from this uniformity of duties, or one of the States from the uniformity of naturalization: that is, it may relieve goods imported in British bottoms into New York, from the one-tenth extra duty, and let it remain on all the other ports of the

Union. But say gentlemen, it is unfair to reason against the use of power by its probable abuses. He thought it advisable to guard against abuses: but has this abuse not already taken place? He thought it had. Not with respect to a port of the consequence of New York; that would have been too palpable; but on the Lakes, by the third article of the Treaty, goods imported to the territory in that quarter, in British bottoms, are subjected to no higher duty than goods imported in American vessels to the Atlantic ports. Here appeared a departure from that uniformity required by the Constitution; here appeared a preference given to the ports of one State over those of another; and yet gentlemen contend, that the House have no right to inquire into the business. Indeed, so delicate was one gentleman [Mr. BUCK] on the subject, that he opposed committing the *Algerine Treaty*, lest it should establish a claim to investigation! It was true, the trade on the Lakes was small, but it would increase. Thus, although Congress were very wisely restricted, when laying duties, to make them uniform, yet the PRESIDENT and Senate would be capable, by the assistance of a foreign Power, to destroy that uniformity.

Again: he said, the Treaty-making power, as contended for, may prevent the export of rice, tobacco, fish, flour, or any other article, and that House must not interfere, must not inquire. But this would be the abuse of power. True; but it will be found, by the twelfth article, that the Envoy agreed that laws should pass to prevent the export of all West India goods. Nay, even of cotton, one of the objects of our growth. It was true, the Senate did not consent to this: but if they had, and the PRESIDENT had ratified it, that House, it was contended, must have passed the laws. It would have had no option.

Again: Mr. S. said, Congress passed a law (in his opinion a wise law) granting a bounty on the fishery, as a nursery for seamen, and another for promoting navigation by restrictions on foreign bottoms. Suppose a power jealous of our rapid increase of navigation, should, by a Treaty, repeal those laws. Would that House have no right to inquire the reasons why? Gentlemen say no: but that the Senate would be too wise to consent to such a Treaty. And yet it will be found, the law giving advantages to American vessels over foreign, and laying an extra duty on tonnage, will be virtually repealed by that part of the Treaty which gives a right to the British to countervail, and preclude the United States from legislating further on that subject. But the Treaty has not touched the fishery bill, if it had, submission ought (it is contended) to have followed from that House. The subject may thus be followed under the Treaty-making power, until every power granted by the people to Congress would be swallowed up, and that House reduced to a registering office.

He asked what could stop the Treaty power thus construed; he trusted that House would, and he was happy that the subject was brought forward under the Presidency of the greatest man

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on earth, because a doctrine established whilst he was at the helm of the nation, would carry so much weight with it, that it would probably never be again disputed.

But, said he, are those papers secret? No, they are known to thirty Senators, their Secretary and his clerks, to all the officers of Government, and to those of the members of this House who choose to read them. Then, say gentlemen, where is the necessity of calling for them? He answered, because it was more proper and more respectful to themselves that they might form a document which the members might quote in support of their arguments, when the Treaty came under discussion; otherwise they might be called to order, or their quotation denied. For instance, suppose he should assert that the Envoy had no power to effect a commercial Treaty; that he was to try what terms relative to commerce might be obtained, but positively prohibited from signing anything until it should first be reviewed by the PRESIDENT. Suppose he went further, and should say that the signature of the Envoy committed this country to a situation so delicate, as in some measure compelled the Senate to consent, and the PRESIDENT to ratify: What would be the consequence? Why, some member might deny it, and the one assertion would stand against the other.

A gentleman from Massachusetts [Mr. SEDGWICK] had applied his arguments to three points: 1st. That the doctrine of that House having any check or control over Treaties entered into by the PRESIDENT and Senate, was new, never before heard of, and never mentioned in the different Conventions which adopted the Constitution. 2d. That the Senate was composed of men, the most virtuous and enlightened; men, who had always been forward in the hour of the greatest danger; chosen by the elect of the people; by the Legislatures of the different States; not by an ignorant herd, who might be cajoled, flattered, and deceived; not even by the enlightened citizens of America. 3d. That the opposition arose not from the provisions in the Treaty, but because it was made with the British. From the first point he had been completely driven by a gentleman from Virginia [Mr. BREX] who had proved that the doctrine was not novel, but as old as the Constitution, and generally admitted in the Conventions.

On the second point, no person would deny the good qualities of the Senate; but without any disparagement to the Senators from Massachusetts, he should be at no loss to find two gentlemen from the same State of equal abilities and of patriotism as well tried, and he presumed the gentleman would not disagree with him, when he was informed that he would probably fix his eye on him as one. The same gentleman said, Who are we that we should attempt to judge over the heads of those wise men—we, who are collected from the remote corners of the Union? We, said Mr. S., are the immediate delegates of the people, collected from the different districts of the Union, to aid and assist the wise men above

stairs in making wholesome laws, and to retain those privileges given to the House by the Constitution, which he trusted they would hand to their successors inviolate. He then took a view of the members who came from the remote parts of the Union, and declared them to be men of sound judgment and real abilities.

The third point was a very serious charge indeed, no less than that the opposition which had been made, was not to the instrument, but because it was made with Great Britain; and the gentleman asks, why a similar opposition had never been made to the Treaty with France? Why this language? Can such reflections assist in the discovery of truth? Was the gentleman aware how this might be retorted? Did he reflect that some gentlemen of as little temper as himself might have said, that such a Treaty would not have been signed by the Envoy with any other nation, nor consented to by the Senate. Nay, he might, if very irritable, have said, that if it had not been British, it would not have been supported on the floor of that House, and might have quoted in proof the great delicacy of certain gentlemen on the resolution relative to American seamen impressed by the British.

But it was with pleasure he had seen, that no reflection, no insinuation, no threats, had been uttered by any gentleman on that side of the question which he had espoused. He hoped that nothing but fair arguments would be adduced. If he should be in the minority, it would be his duty, and he would (as a Republican ought to do) acquiesce in whatever might be the determination of the majority. As to the Treaty with France, it was made before the formation of their Constitution, which wisely provided that all engagements, heretofore made, should be binding on the new Government; of course, neither the PRESIDENT and Senate, nor that House, had any power over it.

Mr. S. then stated, that he did not mean, and he hoped he should not be understood to preclude himself from voting to carry the Treaty into effect. He held himself entirely open to conviction; and if he should find that the same was expedient, whatever might be his opinion at present on the instrument (and in truth he did not think it good) yet he would keep himself at full liberty to act as he might think most fit to the interest of this country, when that subject should come before the House.

MARCH 18.—In Committee of the Whole, on Mr. LIVINGSTON'S resolution:

Mr. ISAAC SMITH did not pretend to prescribe limits to other men's faith, but he never could believe that men, as wise as those who composed the Convention, would have left so important a regulation, as was now contended for by some gentlemen, to mere uncertain construction. He believed, if they intended that House should have had an agency in the making of Treaties, they would have said so in express terms. Had they done so? Nothing like it. So far from it, that they had unequivocally appropriated the Treaty-making power to the PRESIDENT and two-thirds

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of the Senate, in terms as express and positive as words could form: and the gentleman in opposition could not, did not deny it. But, say they, this power may be abused, shamefully abused, and, therefore, we will construe it out of the hands the people have placed it in. We will assume and declare ourselves the sole guardians of the people, and we will cry out liberty, liberty; and, as the people love the sound (he hoped they would always love the substance,) perhaps they will believe us. Here rests the fallacy. The people knew, whether they know or not, that they chose the PRESIDENT, and they firmly believe, as well they may, that he is their guardian. The people knew, also, that they chose the Senators, and they likewise think they are their guardians. How we, said he, became sole guardians, will require a modesty superior to that of New England to explain. The people have declared that the PRESIDENT and Senate shall make Treaties, without a single exception, and, lest there should be any mistake or cavilling about it, they have put it in written words, as they thought, too plain to be doubted, too positive to be contradicted. It appeared to him that it was a sufficient answer, though a short one, to all the laborious arguments had in favor of their interference, to say, that the people wills it otherwise: *sic volo, sic jubeo, stat pro ratione voluntas*. If they had under consideration alterations or amendments to the Constitution, those arguments might, perhaps, be proper; but, as matters now stand, they are mere inapplicable declamation.

A gentleman from Virginia told them that the Government of the United States was a Government of checks, but said, that, in the short time it had existed, they were completely routed. Nevertheless, he mentions several checks that still stand their ground: among others, biennial elections were a check upon the Executive. According to his calculation, he said, they were a check upon that House, in the ratio of four to two and of six to two, and, therefore, the people trusted them less than any other branch of Government, and he most cordially adopted that gentleman's own words, "if the opinions now contended for prevail, nothing will remain to be done by checks." Construction will answer every purpose.

Several gentlemen had adduced arguments from the Government of Great Britain, and had attempted to assimilate the American Government to it, to give them the greater force. He would examine that matter. Did the people of England choose their King every four years? Was he impeachable? No, he can do no wrong. Did they elect their House of Lords or Senate? No, they are hereditary as well as their President. Must two-thirds of them approve every Treaty before it can become valid? No such thing. How a parallel, then, could be formed out of such diverging lines he left to wiser men; it was greatly beyond his poor abilities, and he was equally incapable of comprehending arguments drawn from so mysterious a source.

A gentleman from Virginia boasted much of the superabundant love of liberty that prevailed

in the State he had the honor to represent. The groans of three or four hundred thousand black people held in bondage, he said, afflicted his ears, and made him hesitate, although he wished to believe the encomium he had bestowed. He did not like boasting, it provoked retort, and offence followed. He should not say one word in praise of New Jersey; it did not need it.

Mr. LIVINGSTON said, that the very able support this resolution had received, might seem to release him from any obligation of speaking in its defence; nor would he now trouble the Committee with any observations on the subject, if those he made on the introduction of the business had not been misstated, and his subsequent explanation partly suppressed. He had stated, when he had laid the resolution on the table, as a reason for requesting the papers, that important and Constitutional questions would probably arise on the discussion of the Treaty. It had been represented, (certainly from misapprehension, not design,) that he confined the use of the papers to the elucidation of a Constitutional question only; and it had been asked, with an air of great triumph, how the instructions and correspondence could throw any light on the question of constitutionality, to decide which nothing was necessary but a comparison of the Treaty with the Constitution? Mr. L. said he had not confined the utility of the papers to that point, but that, if he had, it would not be difficult to suppose a case in which they were necessary to determine the constitutionality of the Treaty. The Constitution, he said, gave to the PRESIDENT the power to make Treaties, "by and with the advice and consent of the Senate." Men, respectable for their talents and patriotism, had supposed that, by the true construction of this clause, the PRESIDENT could make no Treaty unless by the previous advice and consent of the Senate; in other words, that the Senate should advise the making of a Treaty, which they could only do before it was commenced; and should consent to it by a ratification after it was concluded. He would give no positive opinion on this subject, but supposed it a point worthy the attention of the House. The construction, he said, appeared reasonable, and had been heretofore sanctioned by practice. Two instances he could recollect; one was in the Treaty of Holston, where Governor Blount was "vested with full powers and specially empowered by and with the advice and consent of the Senate." The other instance was found in the answer of the PRESIDENT to the French Minister, who offered to enter into negotiations for a Treaty of Commerce, which the PRESIDENT declined, by referring him to the meeting of the Senate, which was not then in session. If the PRESIDENT supposed he could not commence a negotiation without the concurrence of the Senate, it gave force to this construction; and, if it was a true one, nothing was more demonstrable than that the papers were necessary to determine whether the Treaty in this point had been constitutionally made.

But whatever doubts, Mr. L. said, might have been occasioned by the general expressions with

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which the motion had been introduced, they must certainly have been removed by the explanation which had been very properly demanded by the member from Connecticut [Mr. TRACY.] He had, on that occasion, declared that the papers were required for general information, to be applied as that information might render it proper.

1. To the superintending power which the House had over all the officers of Government; and,

2. To guide their discretion in giving or refusing their sanction to the Treaty in those points where it interferes with the Legislative power.

Gentlemen had found it convenient, because some others had disavowed any intention to impeach, to consider the first ground as wholly abandoned: but, in the nature of things, this could not be the case. It was impossible to determine that we would not impeach until the papers were seen. Facts might then appear that would render that an unavoidable measure which was not now contemplated. If, for instance, he said, instead of a Treaty with Great Britain, we were now discussing one formed with the Porte, where it is the custom for Ministers to give and to receive presents; and, on the production of the correspondence, it should appear that our Minister had received a *douceur* on the signature of the Treaty, he asked whether, in such case, that House would not think themselves obliged to impeach? If they would, he thought the obligation could not be denied, when cases might exist, where, without any previous intention, an impeachment was unavoidable. The integrity of the gentleman who had formed this Treaty was, he said, too well established to lead any one into a supposition that any thing of the kind could have occurred in this instance; but it might in others. The idea of impeachment, therefore, though not at present contemplated, could not be formally abandoned.

Before he considered the second and most important ground of opposition, Mr. L. said, he would take notice of an objection to the form of the resolution by a gentleman from South Carolina [Mr. HARPER.] It was of a kind which he had not expected from the quarter in which it arose. He had objected to the humble style of request. If we had a right to the papers we should demand them. "I would plant my foot here," says the gentleman, "and require the papers as a right." Mr. L. said that the resolution was couched in the respectful terms with which that House had always addressed the first Magistrate of the Union; that civility and respect were always due to him; and that he was persuaded the member would see the propriety (on this, as he had on other occasions,) of transferring into public life that urbanity and politeness for which he was so remarkable in his private intercourse. The same gentleman had observed, that there was no reason for requesting the papers, because any member might inspect them in the Clerk's office of the Senate. He could not suppose, if this were the fact, that the publicity of the papers was a good reason to prove that they ought not to be commu-

nicated. Mr. L. did not, however, think that individual members ought to owe their information to the courtesy of an officer of the Senate, which they had a right officially to receive in a body. It had been stated that he (Mr. L.) having had access to these papers, could not want any information they might contain. He would state the facts relative to that transaction: It was true, he said, that, as Chairman of the committee appointed to inquire into the case of impressed seamen, he had been indulged with a view of the instructions and correspondence; but engrossed by the important object then referred to him, he had paid little or no attention to such parts as did not relate to that subject. After an interval of some days, he went with an intention of completing the perusal of them, but was told that he could not see them without leave of the Senate. What I did see, added Mr. L., convinced me of the propriety of the whole being laid before the House. I found, in so much of the instructions as I did read, a positive direction to conclude no Treaty of Commerce unless certain important articles were agreed to which are not found in the instrument before us. Among them, if I recollect right, was a stipulation, that free bottoms should make free goods. He had been informed that these instructions were altered, and a fuller discretion given to the Minister; but this was a point which he thought it essential the House should be informed of. Leaving, however, the ground of superintendence, which would make this inquiry necessary, gentlemen had chosen to put questions at issue on the other point; and had endeavored to show the impropriety of the demand, by denying any discretionary power in the Legislature, either to judge of the Treaty itself, or decide on the propriety of carrying it into effect. Mr. L. said, he was not unwilling to meet them on this ground, and to consider the decision of this motion as declaratory of the sense of the House on that important question, whether it is constitutionally bound to give its sanction to every Treaty that may be formed by the other branches; and to provide all the sums necessary to fulfil every stipulation they may make; for, to this extent, did all their arguments go.

Two positions had been assumed, differing not materially in the power ascribed to Treaties, but distinguished chiefly by the mode of applying this power.

By some it was contended, that the interference of the Legislature was necessary in some instances, but that the Treaty operated by way of moral obligation, to enforce the necessary steps to give it validity; and that though there is a physical power of refusal, yet it ought in no case to operate against the superior obligation.

Others had asserted, that Treaties being the supreme law, might operate directly, without the intervention of any other body. That where existing Legislative acts opposed their execution, the Treaty was paramount, and could repeal them.

These positions were in fact the same, because, if a Treaty was, at all events, to have effect, it was perfectly immaterial, whether it operated di-

rectly by its own power, or indirectly by the instrumentality of another body; both, he thought, equally subversive of the principles of the Government; but the first was most degrading to the Legislative dignity. Nor could he discover from what part of the Constitution it was inferred. Wherever, in that instrument, a duty was imposed, it was clearly and explicitly assigned, as in case of the President's compensation, that of the Judges, and many other instances. It is not, then, to be conceived, that so important an obligation as this should have been left to implication. If it had been intended so to annihilate this discretion, the same language would have been used. "Congress shall pass laws to carry every Treaty into effect," but nothing of this kind appears. Again, if it had been intended to make Treaties paramount over laws, it would seem to have been the more simple mode, to have dispensed with their interference. Why leave a phantom of discretion, an unreal mockery of power, in the hands of the Legislature? In order to get rid of this difficulty, some gentlemen seem willing to allow a species of volition, but it was a pittance that would be scarcely worth accepting. In cases of extreme necessity, and in others, where, from corruption or other good cause, the compact is void, this House, they say, may refuse to carry it into effect. In the first case, where it is impossible to give efficacy to a Treaty, the power of refusing it was surely of little value. And where the compact is void in itself, the liberty of not being bound by it, would scarcely be contended for. If the subject were less serious, Mr. L. said, one would be tempted to smile at the efforts that are made to reconcile the Constitutional predestination contended for, with the free agency of discretion. It was as difficult to be understood, as the most entangled theological controversy, and, like most disputants in that science, they concluded with anathemas against all who could not comprehend, or would not believe them. We have a discretion, whether to act or not, say they; but we are under an obligation to act, and if we do not, we are guilty of treason and rebellion. This was the same kind of discretion a man has, whether he will commit murder or let it alone; he may do it, but if he does he will be hanged. This was a worse alternative than that generally called Hobson's choice—that was, "this or nothing;" but here we are told, "do this, or be hanged for a traitor." So that hereafter, when any one intended to express an inevitable necessity, he would call it Congressional discretion.

If, then, the Treaty does not operate by way of obligation on the Legislative power, let us, said Mr. L., examine, whether, as is contended, "a Treaty is paramount to a law, and can repeal it, though it, itself, cannot be acted on by the Legislative power; this, he said, was the most important question that had ever been agitated within these walls. It evidently tended to the substitution of a foreign Power, in lieu of the popular branch; it was replete with the most serious evils. He could never suppose so great and pernicious an absurdity was contemplated by the Constitu-

tion; but, if such was the true construction, great as the evil was, we must submit, until it could be legally amended.

The Constitution gave all Legislative power to the Congress of the United States; vested the power of making Treaties in the President and Senate, and declared that the Constitution, the laws made in pursuance thereof, and Treaties made under the authority of the United States, should be the supreme law of the land. He had always considered the order in which this enumeration was made as descriptive of the relative authority of each. 1st. The Constitution, which no other act could operate on. 2d. The laws made in pursuance thereof. 3d. Treaties, when they contradicted neither; for, if no weight was given to this argument, Treaties would be superior, both to the Constitution and the laws, as there is no restriction with respect to them as in the case of laws, that they be made pursuant to the Constitution. He did not believe gentlemen would contend for this absurdity; they must therefore refer to the order of the enumeration to measure the relative effect of the Constitution, laws, and Treaties. If the objects of Legislation and of Treaty compact could be kept distinct, no question would arise, there would be no pretext for interference, but they could not; almost every object of legislation might also become that of compact with a foreign Power.

He then read the enumeration of powers vested in Congress, and said, that many of these had already become the objects of Treaty; many more probably would be; and the whole, directly or indirectly, were liable to be embraced by it. If, then, all, or even any one of these objects may be regulated by the Treaty, without any interference of law, the Constitution, said Mr. L., has contained the evident absurdity of submitting the same object at the same time to the control of two distinct powers. An absurdity that could not be destroyed but by supposing, that it was intended these different powers should operate under this Constitution as they do in that of England; so that every Treaty operating on objects submitted to the Legislative power should receive its sanction before it took effect. This construction would reconcile all the parts of the instrument to each other; whereas, the other would set them at variance, and, by degrees, deprive the House of Representatives of all the share in legislation. This was not reasoning, he said, from an abuse of power. If it was properly vested in the President and Senate, it was not only permitted, but it was their duty to use it, and no one could call the exercise of a Constitutional right an abuse of power. He admitted that, if the text were explicit, reasoning from consequences was a bad mode; but, as that was not pretended in the present case, it would be well to weigh the serious evils that attended the construction gentlemen contended for, and to inquire whether there is more danger in trusting the Representatives of the people with a check on all Treaties relating to those objects which are specially vested in them by the Constitution, than in making those Representatives subservient to the will o

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twenty-one men, who may be leagued with a foreign Power?

In looking for the true construction of this instrument, we should consider the state of things at the time it was proposed and adopted. The opposition it met was well known, and the power given to the Senate and PRESIDENT was considered as one great cause of opposition. It cannot be supposed, as the sentiments of the people were known by the framers of the Constitution, that they would have proposed any plan more energetic than the Government of Great Britain.

But it was probable, Mr. L. said, that the Treaty power was intended to be placed in the PRESIDENT and Senate to the same extent only in which it existed in the Executive of Great Britain. The words of our Constitution on this point were the same made use of by British writers in defining the corresponding power in their Government, and it seemed evident that some of its features (and this was none of the least prominent) were drawn from that original. He was happy that the parallel was not perfect in other instances. He thought it completely so in this; and that the practice therefore of that Government would, in some measure, lead to the true construction of this. Aware of the weight of precedents drawn from English history, gentlemen endeavored to weaken them by a very ingenious argument: "The British Constitution," say they, "is not written, it is formed of usages; if you prove, therefore, that it is the usage for British Parliaments to sanction Treaties, you prove it to be their Constitution, but you do not prove it to be ours." It was true, Mr. L. observed, that the English Constitution was formed partly of immemorial usages; but it was also true, that those usages were collected in books of authority, and that the different powers of Government were generally designated, so that the leading points in their Constitution were as well known and defined as they were in that of America. It had been shown by a reference to writers of the best authority, that, by the Constitution of England, the power of making all Treaties was in the King; but as the power of making all laws was in the Parliament, this latter, as the greater power, controlled the former, whenever it affected objects of legislation. Thus, in the Constitution of the United States, he contended, the power of making Treaties, that is, all Treaties, vested in the PRESIDENT and Senate; but, as all Legislative power is vested in Congress, no Treaty operating upon any object of legislation can take effect until it receives the sanction of Congress. The practice, too, was the same. The King asserted his right of making and completing Treaties, by not only concluding, but ratifying them, before they were submitted to Parliament, but he believed no Commercial Treaty was proclaimed as the law of the land before it had received the sanction of Parliament. Indeed, it was impossible, in any country, and under any Constitution, where the Legislative and Treaty-making powers are lodged in different hands, that any other construction can be given without running into the absurdity he had before hinted at, of making two different pow-

ers supreme over the same object at the same time. Our ideas had been confounded by referring to the practice of Governments where the two powers were united, and where a ratification gave the consent of both.

If, then, there was a perfect analogy between the power vested in the Crown in England, and that delegated to the PRESIDENT and Senate in America, on the subject of Treaties; and if the Parliament, by virtue of its general Legislative authority, was in the practice of giving or withholding its sanction to Treaties concluded by the King, it was but a fair inference to say, that the same discretion existed in Congress.

Some instances of the exercise of this power by Parliament had been before quoted by others. The inexecution of the Treaty of Utrecht, in consequence of Parliamentary opposition, and the difficulties with which the Commercial Treaty with France was carried through the House of Commons, in 1787, had been already noticed. He would mention two other precedents drawn from the same source equally striking, or perhaps more so, as the course of proceeding there followed was precisely that which was proposed by the resolution in debate. The first was the proceeding on the Barrier Treaty, taken from the 5th vol. Parl. Debates, p. 43, where the House of Commons began, by a resolution to address the Queen, "that all instruction and orders given to the Plenipotentiaries that transacted the Barrier Treaty, and also all Treaties mentioned and referred to in the said Treaty, might be laid before the House, except such Treaties as they already had." We are told in the subsequent page, that on the 13th, that is, only two days after the request, "Mr. Secretary St. John presented to the House, by Her Majesty's command, a copy of the instructions to the Duke of Marlborough and Lord Townsend, about the Barrier Treaty, extracts of letters from Mr. Boyle to Lord Townsend, concerning the said Treaty; also, a copy of the Preliminary Articles, signed at the Hague; the titles of which copies and extracts of letters were referred to the Committee of the Whole House. After this, it was resolved to present an address to Her Majesty, that the letters written by Lord Townsend to Mr. Boyle, the Secretary of State, dated the 1st and 26th of November, 1709, might be laid before the House, which Mr. Secretary St. John accordingly did on the 14th of February." After having obtained the papers, Mr. L. said, the House of Commons proceeded to the consideration of the Treaty in Committee of the Whole, and voted, 1st. That the Treaty contained articles destructive to the trade and interest of Great Britain. 2. That the negotiator had acted without authority. 3d. That the advisers and negotiators were enemies to the Queen and Kingdom.

The Treaty being thus obstructed, the States General remonstrated to the Queen on the subject; but, conscious that the Parliament were only exercising a Constitutional power, they make no complaints in their memorial of any breach of faith, though the Treaty had been ratified. They enter into the merits of the Treaty, offer to nego-

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tiate on the obnoxious articles, and conclude with "entreating the continuance of Her Majesty's friendship."

This instance, then, said Mr. L., is complete to show the propriety of a call for papers by the House of Commons; a ready compliance on the part of the Crown, a deliberation on a ratified Treaty, a rejection of it, and an acquiescence on the part of the foreign nation, without remonstrance.

The other instance was an address in the year 1714, requesting "the Treaties of Peace and Commerce between Her Majesty and the King of Spain, and the instructions given to Her Majesty's Ambassadors thereupon, together with the copies of the King of Spain's ratifications of the said Treaties, and the preliminaries signed by the Lord Lexington and the Marquis of Bedmar, at Madrid, and all other agreements and stipulations which had been made concerning the commerce between Great Britain and Spain. 2dly. An account of what engagements of guaranty Her Majesty had entered into by virtue of any Treaty with any foreign Prince or State, from the year 1710. And 3dly. An account of what instances had been used by Her Majesty for restoring to the Catalans their ancient privileges, and all letters relating thereunto. And then it was resolved, to take into further consideration the Message that day sent from the Lords upon Thursday next following."

Objections had been raised to this construction, drawn from three different sources.

1. From the prevalent construction at the time of establishing the Constitution.

2. From the practice of the Government since that period.

3. From the present ideas entertained by the people of the United States.

1st. As to the construction generally received when the Constitution was adopted, Mr. L. did not conceive it to be conclusive, even if admitted to be contrary to that now contended for; because he believed we were now as capable at least of determining the true meaning of that instrument as the Conventions were: they were called in haste, they were heated by party, and many adopted it from expediency, without having fully debated the different articles. But he did not believe the general construction at that time differed from the one he had adopted. A member from Virginia [Mr. BREX] had shown, by recurring to the debates in the Convention of that State, and to other cotemporaneous productions, that the framers and friends to the Constitution construed it in the manner that we do; whilst its enemies endeavored to render it odious and unpopular, by endeavoring to fix on it the contrary construction. And as the friends to the Constitution were the most numerous, we ought rather to take the explanation under which a majority accepted the Constitution, as the true one, than to look for it in the bugbears by which anti-Federalism endeavored to prevent its adoption.

2d. The second argument that had been used to deprive the Legislature of any right of interference, in cases of this kind, was drawn from the uniform

practice of the Government ever since its formation. The gentleman from South Carolina [Mr. SMITH] who made this objection, had cited one instance of this practice in the resolution directing Treaties to be published with the laws, and had adverted to the appropriations for the Indian Treaties, (under the general head of the Military Establishment,) as favoring his principle. As to the resolution, Mr. L. said, there was no doubt that Treaties, when properly sanctioned, ought to be observed, and therefore the resolution was proper, that they ought to be promulgated. On the subject of appropriation, it had been well observed by a gentleman from Virginia [Mr. GILES] that the House exercised as much discretion in granting the supply, by way of addition to the military appropriations, as if it had been given specially for the purposes of the Treaty. But the truth is, said Mr. L., that an accurate examination into the communications of the Executive in analogous cases, and the proceedings of this House, will form a strong, I think an irresistible, argument in favor of the resolution. It would appear, he said, from the view he was about to take, that from the first establishment of the Constitution until the negotiation of this Treaty was begun, the Executive had been in habits of free communication with the Legislature as to our external relations; that their authority in questions of commerce, navigation, boundary, and intercourse with the Indian tribes, had been expressly recognized, even when difficulties on these questions were to be adjusted by Treaty.

The first case related to a provision for an Indian Treaty, and was suggested by the PRESIDENT, in a Message of the 7th of August, 1789, in which he says: "If it should be the judgment of Congress that it would be most expedient to terminate all differences in the Southern District, and to lay the foundation for future confidence by an amicable Treaty with the Indian tribes in that quarter, I think proper to suggest the consideration of the expediency of instituting a temporary commission for that purpose, to consist of three persons, whose authority should expire with the occasion." In consequence of this Message, Congress took into consideration the expediency of the measure recommended to them, and passed the act of the 26th of August, in the same year, appropriating twenty thousand dollars for defraying the expense of negotiating and treating with the Indian tribes, and authorizing the appointment of Commissioners. The PRESIDENT having appointed Commissioners to treat under the direction of the act, gave them instructions, which were communicated to the House, and from which this is an extract: "You will please to observe, that the whole sum that can be constitutionally expended is twenty thousand dollars, and that the same cannot be extended." Nothing having been effected by the Commissioners, the PRESIDENT mentioned the subject again in his Address to both Houses, on the 1st of January, 1792. In the month of March, in the same year, the House of Representatives adopted the following resolution, recommended by a select committee: "That provision ought to be made by

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law for holding a Treaty to establish peace between the United States and the Wabash, Miami, and other nations of Indians, Northwest of the river Ohio; also, for regulating trade and intercourse with the Indian tribes, and the mode of extinguishing their claims to lands within the limits of the United States." On the 29th March, following, a bill passed the House of Representatives, the title of which was amended in the Senate and passed, appropriating twenty thousand dollars for purposes expressed in the preceding resolution.

Mr. L. said this case was important, as it was the first communication relative to a Treaty made under the Constitution. An attentive examination of its different parts would show that very different ideas were then entertained from those which were now enforced. He would first observe, that the discretion of the House of Representatives as to commerce with foreign nations, stood precisely on the same footing with that which they ought to exercise in regulating intercourse with the Indian tribes; that if one could be done without their concurrence, by Treaty, the other might also; and that therefore, when the PRESIDENT recognized their right to deliberate in one case, he virtually did it in the other. Let us then attend to the language of the Message, said Mr. L. and we shall find that right of deliberation most expressly referred to. "If it should be the judgment of Congress that it would be most expedient"—what can be more explicit than this language? And again, "I think proper to suggest the consideration of the expediency of instituting a temporary commission." Here the same discretion is not applied to, but the PRESIDENT, at that time supposing that no implicated power could deprive Congress of the right to regulate trade and intercourse with the Indian tribes, submitted to their consideration the expediency of appointing Commissioners. They passed the necessary laws, and he instructed the Commissioners, not in the language that is now held, that they might stipulate for the payment of any sum, and that Congress would be obliged to find the means; but he tells them, "the only sum that can be constitutionally expended is twenty thousand dollars, and that the same cannot be extended." Why, (if the doctrine is true that we are under an obligation to comply with the terms of every Treaty made by the PRESIDENT and Senate) why did he say no further sum could constitutionally be expended? If that doctrine were indeed true, his language would have been, Use what money may be necessary, contract for the payment of it in your Treaty, and Congress are constitutionally obliged to carry your stipulations into effect.

The resolution above quoted, Mr. L. said, was important, as it proved that Congress then supposed that they ought not only to provide by law for holding Treaty with the Indians, but that they also had the power, and ought to exercise it, of regulating trade and intercourse with the same people, and of prescribing the mode of extinguishing their claims to lands within the United States; but all this, said he, it is now discovered may be done without their aid, by Treaty.

The second instance of the exercise of this dreaded discretion was in the law of March 3d, 1791, appropriating twenty thousand dollars to enable the PRESIDENT to effect a negotiation of the Treaty with Morocco. This originated in the Senate, and is a decided proof that neither the PRESIDENT nor Senate had at that period any idea of the moral obligation that is now discovered, or they would, without the formality of a law, have at once stipulated with the new Emperor for the payment of the necessary sum, which must have been provided by the House.

In a third case, the PRESIDENT had thought proper to take the sense of that House in a matter that of all others demanded secrecy, and under circumstances that would have prevented his making the application, if he had conceived himself at liberty to act without their concurrence. He adverted to the Message of the 30th December, 1790, where the PRESIDENT says: "I lay before you a Report of the Secretary of State, on the subject of the citizens of the United States in captivity at Algiers, that you may provide in their behalf what to you shall seem expedient."

No act having been passed by Congress in consequence of this Message, the PRESIDENT did not conceive himself authorized to bind the United States by Treaty, for the necessary ransom of their citizens; and therefore nothing was concluded until after a subsequent Message and previous appropriation, in the year 1793, when another Message was sent relative to the negotiations with Morocco and Algiers, then pending: "While it is proper [he says] that our citizens should know that subjects which so much concern their interests and their feelings, have duly engaged the attention of their Legislature and Executive, it would still be improper that some part of this communication should be made known." Part of this Message, therefore, was confidentially communicated, which shows, Mr. L. said, on some occasions, it was not deemed imprudent to trust this House with the secrets of the Cabinet; and in consequence of this Message a law was passed, appropriating one hundred thousand dollars for the purchase of a peace with the Algerines. It was ostensibly appropriated to a more general purpose, but the intent was well understood.

The next transaction that he should quote, Mr. L. said, as favorable to his doctrine, was the Message of the PRESIDENT of the 5th December, 1793, and the measure to which it gave rise. The PRESIDENT says: "As the present situation of the several nations of Europe, and especially those with which the United States have important relations, cannot but render the state of things between them and us matter of interesting inquiry to the Legislature, and may indeed give rise to deliberations to which they alone are competent, I have thought it my duty to communicate to them certain correspondence which has taken place.

This Message, Mr. L. said, accompanied the papers relative to France, to Great Britain, and to Spain; and a question would immediately occur, what were the deliberations to which the PRESIDENT then thought the Legislature alone was com-

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petent, and which he therefore thought it his duty to communicate. All our disputes with the nations referred to in the Message, were such as on the new construction of the Treaty power he could have adjusted by compact, without any reference to the House of Representatives; but it is plain, by the express words of the Message, that he did not believe that construction. It was no answer, Mr. L. said, to the argument drawn from this transaction, to say that the PRESIDENT only submitted the question of War or Peace to the Legislature by this Message:

1. Because the Message related to the three principal nations in Europe and he never could have imagined that Congress would have deliberated on going to war with them all.

2. This was evidently not his intention, because as soon as measures were proposed in that House, which he supposed would lead to a rupture with one of those nations, all these measures were palsied by the appointment of an Envoy, and the commencement of negotiation.

It was clear, then, that the PRESIDENT thought the matters communicated by his Message, which related to commerce and boundary, were constitutionally vested in the discretion of Congress. The idea was corroborated by the words of a Message relative to the negotiation with Spain:

"And therefore, by and with the advice and consent of the Senate, I appointed Commissioners Plenipotentiary for negotiating and concluding a Treaty with that country on the several subjects of boundary, navigation, and commerce, and gave them the instructions now communicated."

Why, said Mr. L., communicate the instructions to the Ministers? Because they related to commerce, to navigation, to boundary, on all which subjects the PRESIDENT must have thought the Legislature had a right of decision. He must have thought so at that period; but, unfortunately, all precedent of free communication ended here: Mr. Jay's negotiation began, and a different construction was assumed.

From this view of the acts of Government, Mr. L. said, he trusted that a far different impression would be made, than that the doctrine he contended for was a new one, originating in opposition to the English Treaty, and a desire to disorganize the Government. That, on the contrary, it had been declared by the PRESIDENT, acquiesced in by the Senate, and acted upon by the House of Representatives.

3. One other test of construction remained for examination. It had been relied on by a member from South Carolina [Mr. SMITH] he would therefore notice it; it was the present opinion of the citizens of the United States, as expressed by their town-meetings, and by their Legislatures. Mr. L. said, he did not suppose that the sense of the people on this subject could be perfectly collected, it could only be known by their applications to this House; and in those, he said, an appeal was made to that very discretion which it was contended did not exist. The petitions in favor of Treaty, and those which were presented against it, both acknowledged the right of the

House to interfere. The Legislatures spoke the same language; some had approved of the conduct of those who made the Treaty; but all he believed were silent as to the power of this House. As to the town-meetings, he did not expect to hear them quoted as authority by the gentleman who had introduced them. His fellow-citizens of New York, Mr. L. said, would be surprised when they heard the name of the gentleman who had ushered them on the floor of that House; since they were there, however, said Mr. L., let us hear the language of their Address to the PRESIDENT. They need not be ashamed of it, and he would answer for its contradicting the position of the gentleman who quoted it. [He then read several extracts from the New York resolves to show that they thought the rights of the House were infringed by the Treaty.]

Thus, said Mr. L., to whatever source of argument we refer, we find the Constitutional power of this House fully established; whether we recur to the words of the Constitution, where the power is expressly given, and is to be lost only by implication; whether we have recourse to the opinions of the majorities who adopted the Constitution; to the uniform practice of the Government under it; to the opinions of our constituents, as expressed in their petitions; or, to the analogous proceedings in a Government constructed, in this particular, like our own. Yet, after all this, we are told, said he, that if we question the supremacy of the Treaty-making power, we commit treason against the constituted authorities, and were in rebellion against Government. These were serious charges, and made in improper language. He had not been so long in public life as the gentlemen who made them; but he would boldly pronounce it unconstitutional and improper. Besides, said Mr. L., this language is wrong in another view; it may frighten men of weak nerves from a worthy pursuit; for my own part, said he, when I heard the member from Vermont compare the authority of the PRESIDENT and Senate to the majesty of Heaven, and the Proclamation to the voice of thunder; when he appealed to his services for his country, and showed the wounds received in her defence; when he completed his pathetic address by a charge of treason and rebellion, I was for a moment, astonished at my own temerity; his eloquence so overpowered me that,

"Methought the clouds did speak and tell me of it,
The winds did sing it to me, and the thunder,
That deep and dreadful organ pipe, pronounced
The charge of treason."

I was, however, relieved from this trepidation (continued Mr. L.) by a moment's reflection, which convinced me that all the dreadful consequence arose from the gentleman's taking that for granted, which remained to be proved. He had only assumed that the measure was unconstitutional, and then the rest followed of course. From my soul, said Mr. L., I honor the veteran who has fought to establish the liberties of his country; I look with reverence on his wounds; I feel humbled in his presence, and regret that a tender age did not permit me to share his glorious deeds. I

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can forgive every thing that such a man can say, when he imagines the liberty for which he has fought is about to be destroyed; but I cannot extend my charity to men who, without the same merits, coolly re-echo the charge. Another observation had escaped from the same member in the heat of debate, which another from South Carolina [Mr. SMITH] to whom he before alluded had repeated with high encomiums. It was this, that encroachment was more to be apprehended from the popular, than from any other branch of Government. This doctrine Mr. L. considered as highly pernicious to liberty; and as unfounded in fact, as it was improper. Where, he asked, will gentlemen find facts to justify their opinions?

If it were true, there would now be none but popular Governments in existence; they would have encroached on the Kingly power, until all power was centered in them alone. The sad reverse, however, was the fact. All Europe had once been free; all Europe, with the exception of France and Switzerland, were now in chains. Where, then, would historical facts be found to justify the charge? In the obsequious Parliament of Britain? In the houseless assembly of Naples? Or, the degraded Cortes of Spain? In the hundred years' struggle that had involved the States of Portugal? Would gentlemen look for them in the tyranny of Russia and Germany? In the military despotism of Prussia, or the ecclesiastical one of Rome? Why, then, if unsupported either by theory or fact, are the people told, be on your guard against the popular part of your Constitution? shut your eyes to the conduct of the Executive and Senate, they can never encroach, but beware of the ambition of your Representatives!

He would notice one other objection that had been raised, and then conclude: It was said, if the President supposed these papers necessary, he would have sent them; and that we might offend him by this request. Mr. L. said, this was not the first time that measures were endeavored to be carried, by appealing to the character of the President. He sincerely admired and respected the character of that great man; he was jealous of his reputation, and, as an American, was interested in his glory; no consideration should ever tempt him to destroy one leaf of his well-earned laurels; but, while he had the honor of a seat in that House, he would resist every attempt to cover improper measures by the splendor of any man's reputation.

He had before remarked the singular tendency of argument in this question towards the mystery of theology; it was not only predestination and free agency, we are now told that we must have full faith in the President, and that he and the Senate can do no wrong. What, sir, said Mr. L., has faith, banished by modern infidelity from religion, taken refuge in politics? Has this doctrine of human infallibility been transferred from the ritual into our Constitution?

Mr. L. concluded, begging the pardon of the Committee for the unavoidable length of his investigation; he felt how utterly incompetent he

had been to the task, but he was consoled by reflecting on the eloquence and ability by which the motion had been supported by others.

MARCH 21.—In Committee of the Whole on Mr. LIVINGSTON'S resolution:

Mr. WILLIAMS observed much had been said upon the subject of the present resolution, and so much time consumed, that he should confine his observations within a narrower compass than he at first intended.

It was contended that in a Republican Government there ought to be no secrets; but he would ask whether it was not specified in the Constitution that secrecy should be observed on particular occasions? and, had not his colleague [Mr. LIVINGSTON] quoted the secret Journals of the House? He believed if the Constitution of France were examined, it would be found that their system admitted of secrets. He had the honor, he said, to be upon a committee, before whom many papers were laid, which it would be improper to publish. With respect to the present papers, he did not think there were any secrets in them. He believed he had seen them all. For the space of ten weeks any member of that House might have seen them. It was not merely with respect to the present papers that he opposed the motion, but because it would be establishing a bad precedent; and, as they were a young Government, they ought to be cautious how they established bad precedents. It was well known that in the negotiations in time of war, confidential communications were necessary; but if no papers were allowed to be kept secret, what person would ever venture to make any such communication? Hence this country, when in the greatest danger, may be much injured by improper precedents.

He quoted authorities to prove that there never was but one precedent in Great Britain of a negotiator's papers being given up, that was in the last year of the reign of Queen Anne, when the Ministry were soon afterwards obliged to fly their country. He was sorry that a gentleman returned by the Republican interest of one of the first cities of the Union should have had recourse to a desperate Tory faction for a precedent.

Some gentlemen had observed that the papers ought to be obtained, because the President had intimated, in his Speech, that he would lay the papers before the House with the Treaty; but they were mistaken in their observations, because the papers had not been laid before us.

A gentleman from Pennsylvania said, because the King of England laid the papers relative to a negotiation before Parliament along with the Treaty to which they related, they had also a right to papers, the Governments being similar; but when the King did this, he informed them that he had concluded such a Treaty; and after a thing was concluded, he did not know what could remain for Parliament to do. He would refer to a recent authority, and not go back to 1714; it was to the case of the Treaty with Great Britain respecting American loyalists, when papers were refused to be given up, and it was deemed a most inconsistent thing to require them. This business

caused great debates in Parliament, and the motion for papers was lost, their being only sixty-three for it, and one hundred and four against it. Mr. W. read the observations of different members of Parliament on the occasion, and observed, that although he was unwilling to quote precedents from a Government not similar to ours, yet this was a case in point, and this treaty was negotiated between Mr. JAY, on the part of the United States, and Mr. OSWALD on the part of Great Britain.

The resolution before them called for all papers, whether public or private, except such as related to any existing negotiation; but as the Treaty was completed the resolution included all papers. He should have had less objection to the motion, if the amendment proposed by the gentleman from Virginia had been adopted. He did not see the use the papers would be of if they were got. The House was not vested with either the power to alter or amend the Treaty. But, say gentlemen, they are wanted for information. But he believed they ought to form their judgments of the Treaty from the instrument itself. Suppose I were to employ an agent, and give him instructions to make a contract for me, on condition that it should not be binding until I had approved it; and my agent return and I approve of the contract, what light can be thrown upon it by the instructions which were given to the agent? The instrument alone was what must be had recourse to; because he had it in his power to have withheld his sanction.

If his information was right, when certain resolutions were brought forward in the year 1793, a gentleman from Virginia said that Great Britain would refuse to negotiate with this country; but immediately upon the Treaty being made known, it was everything that was bad.

He would endeavor to answer some observations which had fallen from a gentleman from Virginia [Mr. GILES.] It was asked if the Treaty power could receive any check? He conceived the will of the people ought to be obeyed. They had given power to the PRESIDENT and Senate to make Treaties, which if not complied with, would be to oppose their will. In speaking of the amendments proposed to the Constitution by the Legislature of Virginia, it was said they were only intended to make the check more certain than at present; but he read the resolution, viz.: "That no Treaty containing any stipulations upon the subject of the powers vested in Congress by the eighth section of the first article, shall become the supreme law of the land, until it shall have been approved in those particulars by a majority in the House of Representatives: That the PRESIDENT, before he shall ratify any Treaty, shall submit the same to the House of Representatives;" and insisted that it might be clearly deduced from them, that they did not conceive the Treaty power to have any check in that House. That State had kept uniformly the same ground in all their actions; but the different State Legislatures, to which their amendments had been proposed, had determined the Treaty power rightly placed

where it is at present. But because the people will not agree that they should have a check upon the Treaty power, gentlemen seem disposed to usurp it by their present doctrines.

The same gentleman [Mr. GILES] observed, that the checks in the Government of the United States had been completely routed for these six years. He was exceedingly sorry that the PRESIDENT could bind that House, but he said that was a sword that cut two ways. It was too late in the day to assert this doctrine, when the people were become so enlightened as to be better acquainted with the nature of Government, and better educated than the people of any other nation in the world. They would, therefore, take care of themselves.

He said that a gentleman from South Carolina had observed that the Treaty was put into operation by the Proclamation of the PRESIDENT, and made a part of the laws of the land. An honorable gentleman from Virginia [Mr. GILES] granted that, when completed, the Treaty ought to be annexed to the laws. Mr. W. asked, was this not done? It had been promulgated in the way in which Treaties are directed to be promulgated; and he would ask, if a case were to come before the judges upon it, whether they would not be bound to consider it as the law of the land? If the member from Virginia [Mr. GILES] had been opposed to the Treaty going into operation, why did he not take the proper mode to prevent it? He knew of the resolution which directed how Treaties are to be promulgated and annexed to our code of laws, he knew the Treaty had arrived, and he might have had the subject discussed. If a majority were for preventing the Treaty from being promulgated in the ordinary way, then the resolution might have been done away, and some other mode adopted which was thought most prudent.

The same gentleman next contended that law can annul Treaties. But he believed that the Constitution decided that there was no other way of repealing Treaties but by mutual agreement of the parties, or by war. To break one article of a Treaty was to break the whole, and war, or a new Treaty, must be the consequence. The reason he gave why laws could repeal Treaties was, because laws were the will of the people. Treaties, Mr. W. said, were as much the will of the people as laws. The people had fixed barriers to the different branches of the Constitution, which could not be overleaped without endangering the whole fabric.

In speaking of power, gentlemen say it is more likely to be abused in the Executive than in that House. But, in the year 1789, when amendments were first proposed to the States, a gentleman from Virginia [Mr. MADISON] asserted "that it was less necessary to guard against abuse in the Executive department than any other, because it was not the stronger branch of the system, but the weaker; it therefore must be levelled against the Legislative, for it is the most powerful, and the most likely to be abused, because it is under the least control;" and Mr. W. quoted several

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laws which had originated in that House, by which very large sums of money had been expended to little purpose, which he would explain when they were in a Committee of the Whole on the report from the Committee of Ways and Means.

But gentlemen say, "Have we not as much power as the House of Commons in Great Britain?" He answered, their powers were limited; the Constitution was their guide. He thought gentlemen proceeded as if they were about to form a Constitution rather than discuss a Constitutional question. Some gentlemen had said, Treaties of Amity ought to be vested in the President and Senate; others, that Treaties for a cessation of arms ought to be vested in the Executive; thus they wander, well knowing the ground they had taken was not tenable. It brought to his mind an observation made by an Indian chief, in a Treaty at Albany, since the late war, who, after thanking the Great Spirit for directing them back in the good old path, which made them happy, lamented, that ever since they had wandered from that path, they had been miserable. So it would be with them if they left the Constitution; they would wander from the right path, and involve themselves in difficulties. Appropriations for the army and navy in Great Britain must be made annually, without which they must be discharged. By our Constitution, we may appropriate for two years for the Army, and no mention as to what time for the Navy; so that we can make appropriations for a longer time for our Army and Navy than in Great Britain.

The gentleman [Mr. GILES] further observed, that the opinions entertained in that House three years ago, were not to influence them now; it was necessary, however, in Mr. W.'s opinion, that whenever nations changed their customs, some notice ought to be given of the change, that it might be known by nations with whom they may have any transactions. To prove this, he quoted *Marten's Law of Nations*. The Treaty had been laid before them, that they might appropriate money for carrying it into effect. On the first of June, the British were to give up the Western posts; if money was not appropriated, would they not be deceived?

Before he proceeded to remark on what had fallen from his colleague [Mr. LIVINGSTON] he would mention, that they had for some years, in general concurred in their political opinions, and during the present session they had varied very little; in the question before the House, however, they should differ very considerably. Soon after the Constitution was framed, a Convention was held in the State of New York, in which he had the honor to be a member. He was fully of opinion at that time, as he was now, that the Treaty power was a dangerous power, and, in consequence, gave his dissent to it.

He would proceed to remark on what had fallen from his colleague. He had said, how could they determine whether the Treaty was Constitutional or not, or whether an impeachment was necessary without information! The papers, as he had

said before, were open for ten weeks, during which time gentlemen might have had access to them. But that gentleman said, they had denied him of late, and so they had been to him; but he understood they were at the Secretary of State's office, and might be seen there. He mentioned a case of a Treaty with a foreign country, in which their Minister might have received presents; but declared, that he did not believe there was any corruption in the negotiation of the Treaty in question. It appeared to him, therefore, inconsistent still to talk of impeachment.

Suppose, for instance, his colleague was Attorney General of the State of New York, and a man were to charge another with being guilty of burglary, whose character, reputation, and standing in life were irreproachable, would he subpoena him to meet the charge? No, he would not. And still the case is exactly similar to the present.

If, said Mr. W., his colleague or any member of the House wanted the papers, they had only to rise in their place and declare there were grounds of suspicion for an impeachment; would any member refuse the call? But he presumed no such thing was thought of. Why, then, expend so much precious time unnecessarily? The gentleman believed that the Minister had deviated from the instructions originally given him; but that he received new instructions. Whatever instructions were given to him, it appears, by the Treaty being ratified, that he executed them to the satisfaction of his employer.

It may be, said Mr. W., that this House may determine that it has a check on the Treaty-making power; but the next Congress may say there is no such thing. Whether there is or there is not this check, it is necessary for the stability of the Government to have it determined; and he would join in sentiment with the gentleman from Maryland in a wish that it might be settled. But he would have the amendment constitutionally made; for, if we ourselves do not understand the Constitution, it is not likely that our constituents at large should understand it. If I am wrong now in the true meaning of the Constitution, I have been wrong since its adoption. The people are the sovereign; their will shall be my guide, from which I will not, knowingly, depart. I live in the midst of a body of plain but intelligent freemen, whose employment is the cultivation of the earth, and who prize nothing beyond the freedom they enjoy. They are jealous of their liberties, but they are obedient to, and willing to respect and support the laws of the land. How will they know the laws, if we do not understand the Constitution after it has been in operation for nearly eight years?

Gentlemen observed, that if the Treaty-making power was meant to be vested solely in the President and Senate, it would have been said so explicitly; but, he thought, if the Constitution had intended that House to have interfered in Treaties, that would have been expressed, as a few words would have done it.

His colleague asserted, that that House had the power of carrying into effect or not any Treaty;

but he thought the House obliged to carry into effect all Treaties constitutionally and completely made. To support his doctrine, Mr. LIVINGSTON had referred to the practice of Great Britain, and singled out the Treaty of Utrecht.

In England, said Mr. W., the Treaty-making power is in the King. A Treaty, when made by him, pledges the public faith and binds the nation; but the Courts of Law and the officers of the revenue do not consider Treaties as the supreme law (when they change the regulations of commerce or interfere with previous acts of Parliament) until Parliament has passed acts conformably to such stipulations of a Treaty. The propriety, and, indeed, necessity of this rule, results from the monarchical form of that Government, the power of the King alone to repeal existing laws being a just ground of apprehension. From a like apprehension, a Treaty, though negotiated and made in all its parts by the PRESIDENT, must be submitted to the Senate for their ratification. The Senate is a popular assembly, and representing the States. The concurrence of two-thirds is equal on every principle of combining the public will with the acts of the constituted authorities to the sanction of Parliament.

In England, Treaties of peace, of Alliance, and, perhaps, many others, are perfect and binding without co-operation of Parliament. The opinion of some is understood to be, and *Blackstone* seems to be of the number, that every Treaty, when made by the King, is obligatory without the concurrence of Parliament. The practice, however, is to lay Treaties before Parliament when laws are necessary to carry them into effect, and for Parliament to pass such laws. And, although a very broad discretion has been claimed in Parliament to pass or reject such laws, the uniform practice, except in one instance, has been to pass them. The faith of the nation is considered as pledged. The case where laws to carry the Treaty into effect have been refused, is the Treaty of Utrecht, in 1714. The credit of the example is much abated by the circumstances of the times when it happened. The Duke of Marlborough had been displaced, but his friends were powerful; a Tory Minister was in power and much hated; Queen Anne was decaying, and died that year, and the succession to the Crown was doubtful. Parties were ready to draw the sword against each other, and the most distinguished Ministers were soon proscribed and fled the country. A civil war broke out in 1715, the next year. One only example in such times, and the forerunner and cause of such events, weighs little against the course of practice in numberless cases, all issuing another way. It proves that the practice of Parliament corresponds with our doctrine. If, however, their maxims are different, so is their Constitution in this particular. The act of the King should be compared with the act of the PRESIDENT alone; and the ratification of the Senate should be, and, by our Constitution, it must be, considered equal to the sanction of Parliament. The doctrine ascribed by Mr. GALLATIN to the Parliament affords a reason for their calling for papers; because, he says,

they are to act upon them. Yet such call is seldom made, and would probably be refused, if made without manifest occasion for the papers. Our Constitution has settled a different doctrine; and, as the papers cannot be needed, they cannot properly be asked for.

He doubted not that the Treaty lately concluded with Great Britain had ere now been laid before Parliament, and a sum of money granted for recompensing spoliations committed in this country. Should they then attempt to refuse appropriations for carrying the Treaty into effect, on their part, where would be their national honor, their national faith? Suppose the Treaty were a bad bargain, that would not authorize them to break it. No: if a bad bargain be made to-day, make a better to-morrow. Neither should they determine the thing before it came before them. Probably they may not find it so bad as it had been represented; for though it might, in some respects, narrow our commercial intercourse, yet, perhaps, by so doing, the agricultural interest would be proportionably benefited. He was convinced that the agricultural interest was the true interest of this country. If by the Treaty we find that it tends to the welfare of the farmer, we may conclude our negotiator had the true interest of his country in view; and it was his (Mr. W.'s) opinion that a man taken from the plough and put on board a vessel was a man lost to the true interest of this country. This country is not like that of Great Britain; they are confined to small islands, we have a country extensive and fertile; and it is our duty to encourage settlers, increase our numbers, and, by so doing, we shall soon be in a situation to bid defiance to all the world. He was willing to encourage commerce to its full proportion, but not so as to injure the agricultural interest. The third article in the Treaty had been quoted by a gentleman from Maryland [Mr. S. SMITH] as having a tendency to operate unequally in our impost duties; Mr. W. observed he did not think that was very exceptionable, so far as it had been explained. He did not think the third clause of the Treaty a bad one; it only went to this, that when Great Britain carried goods through our country they were to pay the same duty as American citizens. And would not this be a greater advantage to the United States than if they went up the rivers St. Lawrence or Mississippi, and paid no duty? All the duty received of them would be so much gain to the country.

His colleague [Mr. LIVINGSTON] went on too contemporaneous a construction, and said that the House were better able to judge of the meaning of the Constitution than the Conventions which were held to consider upon its adoption. He did not think so. He said, he had always been called an anti-Federalist, and was so considered to this day. He would willingly join to obtain an amendment to the Constitution with respect to the Treaty power; but, because he did not believe the Constitution contemplated an interference in that House in respect to Treaties, he could not agree to the proposed doctrine.

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Mr. W. said, it was not necessary for him to go into the argument which induced the Convention to fix the Treaty-making power; it need only be mentioned that they knew how and where that power was exercised in Great Britain; and, in order to avert the difficulties which had arisen there, the Convention vested the power with the PRESIDENT and Senate; and, to guard against undue influence, directed that two-thirds of the Senators present should concur with the PRESIDENT. The Convention had many difficulties to surmount in this article; they had to do away the equal power the small States shared, under the Confederation, with the large States. But, to do away the discordant interests of the different States, and to give the small States satisfaction, agreed that all the States should be equally represented in the Senate. In the Treaty-making power each State hath an equal voice. To extend it further, for another check, without the consent of the smaller States, would be doing away, in part, that power which the small States had retained.

He read the observations of one of the Judges of the Supreme Court of the State of New York, when debating on the merits of the Constitution in the Convention held in that State, to prove that Treaties were considered to be paramount to any law. Among the several passages from the debates of the Convention of New York, Mr. W. read the following proposed amendment by Mr. Lansing, who was a member of the Convention that formed the Constitution of the United States, whose abilities and candor were not doubted by any who knew him:

"Resolved, As the opinion of this committee; that no Treaty ought to operate so as to alter the Constitution of any State; nor ought any Commercial Treaty to operate so as to abrogate any law of the United States."

He believed that the amendments proposed in the Virginia Convention, arose from their considering that there was no check in that House: the contrary supposition, he said, would be like rowing a boat one way and looking another.

His colleagues read extracts from the Journals to prove that the PRESIDENT had laid before that House instructions which he had given his Ministers employed on the Treaty business. He believed, when much money was likely to be wanted, it was prudent and right to do so. It was as if he asked that House whether it would agree to a proposed negotiation or declare war—as if he had said, "I cannot unlock your Treasury; which way would you have me act?" It was inconsistent to say that he had diminished his power by asking advice. Books, he said, might be produced without number; but nothing could be brought to justify the breaking of a contract constitutionally made. It has become the law of the land. The House has, indeed, the physical power to refuse to appropriate to carry such a Treaty into effect; but the Constitution meant that what was done by one branch of the Legislature should be confirmed by the others, except the act was unconstitutional. If a Treaty was Constitutional, they

were therefore implicitly bound to carry it into effect.

His colleague denied that any danger lay in the popular part of the Government; he thought differently. To say there was more danger to be apprehended from the Executive than the Legislative branch of Government was unsound doctrine. He should enlarge on this subject when the Treaty came before the House, and he trusted he should clearly show that the greatest danger of abuse lay in that House. Have there not bills originated in this House which have caused the expenditure of much money to very little purpose? Is there not more responsibility in one man than in large bodies? and was not the member from Virginia [Mr. MADISON] of this opinion, as I have before stated?

Where have (said Mr. W.) the acts originated that have caused so much money to be expended, by reason of which the report of the Committee of Ways and Means states the necessity of borrowing such large sums to meet the necessary demands—the laying additional taxes and duties? Did these acts originate with the Executive? No. Where then? In this House. All money bills must originate in this House, being so directed by the Constitution.

Though his colleague represented Great Britain as being in chains, yet he was drawing precedents from their Government. At first, he thought he had fallen in love with the Government, but he afterwards found his mistake. In that Government, said Mr. W., one precedent creates another, and they soon accumulate and form laws; but his friend was drawing precedents from that nation to support the checks, which Mr. GILES said, had been for six years completely routed from the Government of the United States. He feared, if the gentlemen were permitted to take their course, we should soon have a curious sort of Constitution.

But, to conclude, the ruin or prosperity of the nation depended much on the present Government. He said, if the people flourish and are happy; if they are industrious and at peace, they will not complain of their Government. If this be the case, it will scarcely be admitted that the checks in the Government have been completely routed for these six years; if they were, however, he thought the nation could not be better than happy.

Mr. MILLEDGE observed, that as the hour of adjournment was drawing near, he would not detain the Committee long. The length of the debates, on both sides of the question, had left him little room for observation; but as a Constitutional question had been involved in the resolution before the Committee, and as all Constitutional questions were important in their nature, he could not think of giving a silent vote. He perfectly agreed with the gentleman who had spoken last, from the State of Connecticut, that we ought not to put our foot from off the Constitution, and on that, he said, he would stand. Nor did he think it necessary to resort to this or that Government to know their usages, or to know what was said

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in this or that State, or what was written by this or that man—but, according to the common and most obvious meaning of words contained in the Constitution, to draw our conclusion. That part of the Constitution which had been often mentioned, he begged that he might be permitted to read—that all Treaties made by the authority of the United States should be the supreme law of the land. He asked, what was the authority of the United States? Powers derived from the Constitution. What are these powers? Legislative, Executive, and Judicial. The better to understand these, let us see, said he, in what order they present themselves to us. In the Constitution, we find that, in the very first section, all Legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives. This, then, is the Legislative power, the statute-making power, the ordaining power, the enacting power, or any other name by which it may be called. Now, then, said he, let us see the extent of this power. In the 8th section, Congress shall have power to make *all* laws. It would be necessary, he said, to attend to the monosyllable *all*. If the PRESIDENT and two-thirds of the Senate have a right to make a law, do Congress make *all* laws? Certainly not.

The Constitution being his guide, he felt supported by a just confidence in his opinion; but he would not say but he might be mistaken, and was unwilling to commit himself. It was his opinion, then, that Treaties ought to be bottomed on a law before they can have any binding influence. To elucidate this, he said, it would be necessary to read the whole of the clause: Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, (which are, he said, seventeen in number, particularly expressed,) and *all* other powers vested by this Constitution in the Government of the United States, or in any *department* or officer thereof. Here, again, he observed, we find the monosyllable *all*. What does it import? Every one—the whole. Of what? Of all other powers vested by this Constitution in the Government of the United States, or in any *department* or officer thereof. What is the PRESIDENT and two-thirds of the Senate? The Treaty-making *department*. Therefore, being a *department*, whatever powers are vested in them by the Constitution cannot be carried into execution but by a law, otherwise the clause in the Constitution means nothing. What is a law? The will of the people made known. Where is that will to be found? In the Senate and House of Representatives of the United States in Congress assembled. Are the PRESIDENT and two-thirds of the Senate Congress? No; therefore they cannot make a law.

The gentleman from New Hampshire asked, what do the PRESIDENT and two-thirds of the Senate operate upon? I answer, with him on Treaties; but in their nature they are only a department, and whatever a department does, cannot, he repeated, be carried into execution but by a law. The Treaty-making power is an intermediate de-

partment, and no instrument they can make can operate the repeal of a law, the same force being required for a repeal as to enact. The gentleman from Rhode Island observed, that if the House of Representatives was to have a control over Treaties, small States might be injured in their commerce, because the representation on that floor was unequal. Mr. M. observed, that though his State was not a small State, yet it was small in representation, but he apprehended no danger. Under the Articles of Confederation, it was a Government of States; under the present Government, it was a Government of departments, of checks. He said, the local interest of one State was so blended with another, that the security of the one became the security of the whole, founded on a proportion of sovereignty surrendered by each to the whole, and each drawing from the whole its proportion of security. Let us, then, said he, examine the compact made by each with the whole on the score of commerce. Here he read part of the 9th section: No tax or duty shall be laid on articles exported from any State; no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another. He said, the negotiators of the Treaty, in the 12th article, had lain a prohibition on the exportation of cotton to any part of the world except in British vessels. Cotton, the growth of our own soil, an important staple in the two Southern States, particularly in the one he had the honor to represent. But it is said, and so we find it, that this article is suspended, and open to further negotiation. He called on the Committee for any member to deny that the principle did not still exist. He said, then, if a principle still exists in that Treaty which militates with a fundamental principle, a principle in the Constitution, he left to the Committee, which ought to yield. Was this principle to prevail, it would destroy a vital part of the Constitution, and injure the agriculture of the States. He called on that gentleman to beware of admitting such a principle; for, if once allowed, it would extend not only to the cotton of Georgia, but to the flaxseed of Rhode Island, the flour of Pennsylvania, and the tobacco of Virginia.

Mr. M. concluded by observing, that, from all he had said, it was to be understood that the powers of legislation were only with Congress, and that the House of Representatives could not, on the subject before them, legislate without information. Before he sat down, he could not help observing that it was somewhat strange that the first Treaty negotiated under the present Government with an European nation, should produce such a contrariety of sentiment on the meaning of the Constitution, and that he was reminded by this circumstance of the pertinent words of a celebrated writer:

"The works of human invention are progressive, and are not completed but by degrees. At the last improvement we are apt to sit down satisfied, and vainly imagine that we have accomplished the end we have proposed, but time soon unravels the fine-spun system, and we find ourselves ob-

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liged to interweave fresh materials to repair the disordered texture."

Mr. KIRKPATRICK observed, that he could not think of giving a silent vote on so important a question as this had become; but he should not go into an argumentative discussion on the subject, nor should he inquire into the opinions held in different Conventions at the adoption of the Constitution, or refer to Great Britain for precedents. He would look at the Constitution alone, and see what were the powers given to the different branches of Government. When it says that such and such powers are vested in Congress, and such in the Executive, he would abide by that decision. Where that instrument says Congress shall lay and collect taxes, regulate commerce with foreign nations, establish a uniform rule of naturalization, provide for the common defence, &c., and that the Executive shall have power, by and with the consent of two-thirds of the Senate, to make Treaties, appoint Ambassadors, &c., the directions of the Constitution must be abided by.

He would inquire what Treaties could be entered into by the PRESIDENT and Senate, without infringing upon the powers placed in Congress? He believed Treaties of Peace, of Amity, and Friendship, could be made by them. If this could be done, he said, those were the powers meant to be vested in the PRESIDENT and Senate, and not that Treaties should embrace objects which are expressly appointed to the management of Congress. In this view, the PRESIDENT and Senate would not have the power to influence that House in their proceedings; but commercial or other Treaties which embraced objects the regulation of which was placed in Congress, must be laid before them for the purpose of their passing or refusing to pass laws to carry them into effect, in the same way as Treaties with the Indians had been laid before them.

He did not think the question of itself before the House important, as it related to the production of papers, but only as it involved in it an important principle, viz: that when Treaties were made by the PRESIDENT and Senate, and presented to that House, they had nothing to do but appropriate money to carry them into effect. It was true gentlemen had seemed willing to allow them what they called discretion; but it was such a sort of discretion as a criminal might be said to have, who was told he might choose this or that posture of suffering, but that he must die.

It had been said that the PRESIDENT and Senate were equally the Representatives of the people with that House. He would inquire how they became so? The Constitution has appointed that Representatives shall be chosen by the people in proportion to their population. Were the Senate so chosen? No. The people have no vote at all in choosing them. Are they amenable to the people for their conduct? No. Therefore, in no shape can they be called the Representatives of the people. The Senate, he said, represented the several State Legislatures, and that House the people at large. He was sure, therefore, that every thing in which the interests of the people at large were con-

cerned should be submitted to their consideration, before it was carried into effect.

A great deal, he observed, had been said upon this subject, some things well said, and a good deal that might have been as well unsaid, for any good effect they were likely to produce. He was sorry to hear what had fallen from a gentleman from Rhode Island with respect to the interests of small States. He said he was himself a Representative of a small State, and he believed his constituents were well satisfied with the present distribution of power, and did not wish that of the PRESIDENT or Senate to be increased.

He did not think what fell from his colleague, when he said gentlemen wished to amuse the people with the cry of liberty, liberty, and spoke of the groans of three or four hundred thousand slaves assailing his ears, was meant as a reflection upon any gentleman in that House who might hold slaves; but an earnest wish that the people at large might never bend their necks to slavery.

He did not think the subject of the Treaty at all before the House. He should give his vote for the papers; not so much on account of their being of great importance in themselves, but in order to repel the doctrine, that they had no right to discuss the merits of any Treaty whatever.

MARCH 22.—In Committee of the Whole on Mr. LIVINGSTON's resolution:

Mr. CORRIE said, the attention of the Committee was doubtless fatigued with the subject before it; to those gentlemen who had already delivered their sentiments upon the occasion, he need not make any apology; and to those who had not done so, he would assure them that he would not occupy much of their time.

Most of the gentlemen who had gone before him, he observed, had regretted that the debate had taken the turn it had, but he was happy it had taken such a turn. It appeared to him, that the motion was intended as a stepping-stone to a violation of the rights of the other branches of the Government by that House. It became him when he made a declaration of this kind to say, that he did not impute other than pure motives to any member of that House. He believed the general wish was to discover the true sense of the Constitution; yet it was not extraordinary, if in doing this, men were actuated by the sentiments which they had long been in the habit of considering as well-founded, to lean to that construction which most favored their favorite opinions. He had no idea that any gentleman meant to make inroads on the Constitution; but it was his opinion that if the doctrines now insisted upon prevailed, they would have that effect.

He was happy, for two reasons, that the true ground of the present motion was made to appear. Because, if the resolution had passed without discussion, the motives which led to it would not have been seen; and because he wished the question of what were the powers of that House, with respect to Treaty-making, to be discussed, independent of the Treaty, which was likely soon to come before them. They stood now on the pure ground of an abstract Constitutional question.

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Some obscurity, Mr. C. thought, had arisen from not distinguishing the application of arguments to the different principles on which the resolution had been advocated, which he should endeavor to avoid. He considered the Treaty-making power as absolutely vested in the PRESIDENT and Senate; still, that when Legislative acts were necessary to carry a Treaty into effect, the Legislature were not without discretion in the passing of them; if the Legislature had a hand in making Treaties, there could be no question of the propriety of calling for papers; he should, then, in the first place, examine the propriety of calling for papers, taking for granted that the Legislature had no hand in making Treaties.

If they were to consider the power by which a Treaty was made, there would be found two nations concerned, whose consent would be also necessary to repeal it. But were there no other ways of cancelling a Treaty? There were certainly ways of breaking a Treaty. There were circumstances in which the breaking of a Treaty would be justifiable. For instance, if, before a Treaty was carried into effect, there was such a change of circumstances as to make it necessary to declare war; could they not discuss the subject, whether it were more advisable to carry into effect the Treaty, and keep at peace, or break it and declare war? If a question of this kind came up, there could be no impropriety in looking into it; not with an idea of having any concern in making the Treaty, but because such alterations had taken place in the state of affairs, as to make it necessary to discuss the propriety of going to war.

There was another point of view in which that House had a check on Treaties. Granting that a Treaty is completely made, the subject of appropriation must come before them. Gentlemen had been understood to say, that no discretion could be exercised in appropriating the necessary money for carrying a Treaty into effect. But he was of a different opinion; he believed, that though they had nothing to do with the making of Treaties, yet when they were called upon to appropriate, they must exercise their discretion. It was true, that in general when Treaties were made, it would be the duty of that House to carry them into effect, in the same way as they found it their duty to carry into effect existing laws; but he said, there were justifiable grounds of refusing to appropriate money to carry into effect both laws and Treaties.

Mr C. referred to the case of appropriations for the army. Suppose, said he, an army was raised for four years; at the end of two years a fresh appropriation is requisite to support it; but the Legislature has a discretion in doing this, or where was the use of the Constitutional regulation of confining appropriations to two years? He considered, that there was some analogy between such cases of appropriation, and those requisite for Treaties. When a Treaty is made, the nation is bound by it, and its organ has an obligation upon it to carry it into effect. It might, in general, be said that there was an absolute obligation; but still there were particular cases in which that

obligation did not hold. It appeared to him that a Treaty might possibly be of so ruinous a nature, as to justify the refusing to carry it into effect. Nay, he would say, that if half the lies and calumnies which had been spread throughout the Union with respect to the late Treaty with Great Britain were true; if the negotiator had been bribed; if he had given up the rights of his country; if their liberty and independence had been sacrificed; if the PRESIDENT and Senate had been bribed by British gold; if he had any idea of that kind, he would not agree to carry the Treaty into effect; nor should he conceive the national faith bound by such an instrument; no matter what grounds were taken to justify the refusal, whether Constitutional or Revolutionary.

If these principles were just, he said, it would be allowed that the House had a discretionary power with respect to appropriating to carry a Treaty into effect, though it had nothing to do with making it. No cause, he said, had been shown for calling for papers. Why, then call for them? Gentlemen talked about impeachment. They might impeach without papers. But, did they want to bring forward an impeachment? No such thing; it was only to cover the real drift of the motion that this was mentioned.

Did any gentleman think there was sufficient evil in the late Treaty with Great Britain to authorize them in refusing to carry it into effect? It appeared to him, that that House had a right to call for any papers which might throw light on their deliberations. But they must also consider, that there was a discretion to be used by the Executive in giving up papers in his hands. When there are papers in his hands which that House had real occasion for, it was important that they should be brought forward; but, he said, as long as a proper confidence subsisted between the two branches of the Government, if that House asked for papers which the PRESIDENT thought it improper to send them, he would decline doing it. But it is not contended, that the papers which are the object of the present resolution will be of any real use to the House. The gentleman who brought forward the motion had read them through, and the most that he said on the subject was, that the negotiator had not complied with some of the first instructions which were given to him. Another ground of calling for the papers, which was to him a pleasing ground, was that of publicity; for he fully agreed with the gentleman from Georgia, that the more public Governmental proceedings could with propriety be made, the better; but that House had not the right to direct the PRESIDENT on that head, they ought rather to leave it to him to publish the papers, or not, as he pleased; for, if they considered the PRESIDENT as attentive at all times to the duties of his office, it would be arrogance in that House to attempt to influence him in that particular.

But the main point in dispute was the force and effect of the Treaty-making power. What were the powers and privileges of the House on the subject? In pursuing this inquiry, he was pleased with the remark of the gentleman from Georgia,

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that in examining into the meaning of the words and phrases, they must take the meaning that was generally given to them, and if they could find out the true import of the phrase *make Treaties*, it would remove all doubts on the subject. He hoped, for this purpose, that gentleman would have examined the proceedings of his own country; but, instead of doing this, they find him referring to the practices of Great Britain.

The PRESIDENT and Senate, Mr. C. observed, were expressly authorized to make Treaties. To what should they compare Treaties? Might they not say, that they were betwixt nations what bargains were betwixt individuals? And, after he had employed an agent to make a contract, with full discretion, and he had in pursuance of his authority made it, was it not binding? Though in public as well as in private contracts he acknowledged there might be circumstances which would justify a non-compliance with the terms of the bargain; yet, in case all the circumstances had been fair, the contract must be complied with.

It appeared to him not unimportant to consider, whether, when Treaties were made, they were not the laws of the land. A power to make carried, in his mind, a power to complete. But if this were doubtful, where should they look for information? He expected the gentleman from Georgia—knowing him to be well acquainted with the proceedings of Government for a long time—would have referred them to the old Confederation. It would certainly have been more natural to have referred them to the old Congress than to the Parliament of Great Britain. If they looked into the powers of the old Congress, they would find that they had the Power to enter into Treaties and Alliances, which he apprehended to be the same power as that placed in the PRESIDENT and Senate in the present Government; and it was natural to conclude that a Treaty made by the present power was equally binding with those made under the old Government; for it will be recollected that the general power was delegated to the General Government; and if they had the same powers, he could not see that there should be any difference in the exercise of them. If it had been intended otherwise, the Convention, at the forming of the Constitution, would have added a proviso that no Treaty should be made by the PRESIDENT and Senate which included commercial regulations.

It appeared to him that a subject of such recent date as their Constitution could not receive much elucidation from the opinions held concerning it in the Conventions, at or about the time of passing it. He confessed he found little aid to assist his mind to form a judgment on the matter from any other source than the Constitution itself; indeed, he thought the light was there so clear that nothing more was wanted. There were four members, he said, in that House, who were members of the Convention who formed the Constitution. The sentiments of two of those gentlemen he was not acquainted with; but two of them had spoken on this subject. If those gentlemen had come forward and declared that such a power as the Treaty power was contended to be

was not intended to be placed in the hands of the PRESIDENT and Senate, but that the House was meant to have certain powers with respect to Treaties, he would not say but that such a declaration would have shook his faith on the subject; for, though he should still have been guided by the instrument itself, yet authority so respectable would have had its weight on his mind. But what did the gentlemen who have delivered their sentiments say? The gentleman from Georgia [Mr. BALDWIN] mentioned the necessity of inquiring into the true meaning of the phrase, "make Treaties;" and, instead of telling them what had been the practice in the old Government, he went over the water to Great Britain. What did they get from the gentleman from Virginia, [Mr. MADISON?]? He produced five sets of doubts and one problem upon the construction of the Constitution. This had the same effect on his mind as if they had declared that the meaning of the Constitution was well understood, in the Convention which formed it, to vest the Treaty-making power completely in the PRESIDENT and Senate. It was certainly matter of great importance where the different powers of Government were placed, and caused considerable debate in the Convention. Some thought the Treaty-making power should be placed in the Legislature, but that was greatly objected to; it was urged by others that the powers should be in the PRESIDENT and a majority of the Senate; it was again proposed that two-thirds of the whole number of the Senators should consent to a Treaty—but finally passed as it is found in the Constitution. He was far from accusing those gentlemen with impropriety of conduct on the occasion. If they think it would be better for the interests of the people that that House should have a share in the making of certain Treaties, and believe the Constitution will bear that construction, it was not for him to impeach the purity of their motives or propriety of their conduct; but it would require strong arguments to convince his mind that the Constitution placed any such power in that House, contrary to the unanimous understanding of the members of the Convention who formed it.

The arguments which had been urged for placing certain powers in that House with respect to Treaties were drawn from the practice of Great Britain, and from the danger of the Treaty-power being vested wholly in the PRESIDENT and Senate. He did not think that the Government of Great Britain had been introduced for any other purpose than illustration, though other use had been made of it out of doors. With respect to the principles of that Government, let them inquire into its sovereign power; for it was a just position that Treaties must be made by the sovereign power of a nation. Where should they find that power in Great Britain? The King and Parliament were allowed to be omnipotent: Parliament have altered the continuation of their existence from three to seven years. Where must they look in the United States for the sovereign power? They must go to the people at large; for in them it lay alone. Their Constitution limited the powers of every branch of Government, and it was therefore im-

proper to apply foreign ideas to their Constitution. But if a Treaty were made by the agents of a sovereign power, authorized for the purpose, the end was answered: in the United States, the sovereign power can act only by its agents.

The Legislature of Great Britain, he said, it was true, consisted of three branches, and that was almost the only feature in that Government resembling that of the United States. In Great Britain, their Executive is an hereditary Monarch, whereas the PRESIDENT OF THE UNITED STATES is elected every four years. Their House of Lords consisted of bishops and an hereditary nobility—the bishops appointed by the Crown, and the nobility were increased at the King's pleasure; whilst the Senate of the United States is elected every six years. Gentlemen say that Senators are not elected by the people, but they are chosen by the Legislatures of the different States, who are elected by the people. The House of Commons in Britain, which is the only representation of the people their Government contains, is elected by a very small part of the people; and the Crown has such an influence in it as to be able to carry most questions at its pleasure. How could it then bear a comparison with that House, who were chosen by the whole people every two years? The absurdity might be admitted, in that Government, that the King had the power to make Treaties, and that the sanction of the Legislature was still necessary to give them legal validity, because the influence of the Crown was so great in both Houses as to carry any measure it pleased through them. But it would not do in this country. The comparison, therefore, betwixt the two Governments fails, and no arguments can be drawn from it.

The other argument respecting the danger of the power being placed solely in the Executive arose from the comparison with Great Britain. If the powers of the PRESIDENT and Senate of this country could with any tolerable degree of justice, be compared to those of the King and House of Lords in Great Britain, as little taste as he had for revolutions, he would not say but he should be induced to join gentlemen, either by fraud or force, to overturn the Constitution. He looked on the representation in the Senate to be as complete as in that House. Gentlemen were very fond of calling that House the popular branch of Government. He agreed that a criticism on words was in general trifling. That gentlemen from Virginia might assert this, he allowed, as they had nineteen members out of the hundred and five in that House, and in the Senate only a fifteenth part of the body; but gentlemen did not mean, when they spoke on that subject, to have reference to particular States, but to the whole. The Senators and Representatives were regularly apportioned for the whole Union; and, though on different principles, were as completely represented in the one House as in the other.

Mr. C. concluded with saying, that he had no doubt the powers vested by the Constitution were well vested; and if the Constitution was fairly considered, little doubt could remain on the subject. But if the House passed the resolution now

before the Committee, he should not consider the question as decided; but if the construction was still insisted upon, he was happy the Constitution was not wholly in their hands—that there were joined with them in the guardianship of it, the PRESIDENT, the Senate, and the people of the United States.

Mr. HILLHOUSE said, it was with diffidence he rose to speak on a subject which had been so copiously and ably handled by gentlemen who had preceded him. It had been his intention to have given a silent vote on the resolution on the table, but the turn which the debates had taken—involving an important Constitutional question, relative to the powers vested in the different branches of Government—seemed to create a necessity of expressing his sentiments, lest by his vote he might seem to subscribe to certain doctrines in the latitude in which they had been laid down. And as he should differ in some respects from most of the gentlemen that had spoken, he asked the indulgence of the Committee whilst he made a few remarks on a subject which he conceived to be of vast importance, as a wrong decision might give a direction to their Government which might be of serious consequence.

On the one hand, he did not think that Treaties could not, under any circumstances, be the subject of Legislative consideration or discussion, and that they were not to look into them. It appeared to him, that they not only had the right, but that it was their indispensable duty to look into every Treaty, when called upon to aid it in its operation; to see whether it had the Constitutional forms; whether it related to objects within the province of the Treaty-making power, a power which is not unlimited. The objects upon which it can operate are understood and well-defined, and if the Treaty-making power were to embrace other objects, their doings would have no more binding force than if the Legislature were to assume and exercise judicial powers under the name of legislation. It might be proper, also, to examine the merits of a Treaty, so far as to see whether it be of such a ruinous nature as, according to the law of nations, it would be null,* and whether they would be justified in withholding Legislative provision to carry it into effect. He also considered Treaties as subject to Legislative control, so that their operation, so far as related to the people of the United States, might be suspended or annulled whenever, in the opinion of the Legislature, there was sufficient cause. And further, that the clause in the Constitution which provides that no money shall be drawn from the Treasury, but "in consequence of appropriations made by law," as vesting in the different branches of Government a check adequate to every purpose of security.

On the other hand he did not consider the House

* "Though the simple injury or some disadvantage in a Treaty is not sufficient to render it invalid, the case is not the same with those inconveniences that lead to the ruin of the State. Since every Treaty ought to be made with a sufficient power, a Treaty pernicious to the State is null, and not at all obligatory; no conductor of the nation having the power to enter into engagements to do such things as are capable of destroying the State, for the safety of which the empire is intrusted to him."—VAT. 180.

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of Representatives as having a Constitutional right to interfere in making Treaties, or that a Treaty needed any concurrence of that House, or Legislative sanction, to make it the law of the land. He had always supposed that Treaties were exactly on the footing of laws in their operation on antecedent laws, suspending and repealing such as were repugnant. Treaties may sometimes require Legislative aid to carry them into effect; so may laws, and they were constantly in the habit of making laws to carry into effect laws heretofore made.

There was a great difference between giving that House a right to participate in making Treaties, and admitting them to have the same discretionary control (whatever that may be) which they have over laws; to be admitted to the exercise of such a discretion might be expected, but making Treaties is the highest exercise of sovereignty. Every one must reflect how very tenacious the States have been of their sovereignty ever since the Declaration of Independence, and have opposed every idea of consolidation, considering themselves in that respect as being upon a footing of perfect equality, being all equally sovereign, whatever might be their territorial limits. This principle is fully recognised in *Vattel*, who says: "A dwarf is as much a man as a giant; a small Republic is as much a sovereign State as the most powerful Kingdom." Upon this principle was the old Confederation formed; and can it be fairly presumed, then, that under this view of the subject, the States would ever have consented so to form this Constitution, as to admit that the power of making Treaties, this highest act of sovereignty, should have been lodged or submitted to the control of a body, where four States should control the sovereignty of the fifteen, and one State that of seven? This would be consolidation in good earnest.

It was of high importance to the commercial States, that the Treaty-making power should be lodged where there could be a prompt and energetic exercise of it. The United States have no maritime force to protect their trade; the principal security these States have for the immense property they have continually floating on the water, must arise from the exercise of this power, in forming compacts for commercial purposes, or alliances for mutual defence. In this way, said he, we may combine the power of other nations with our own, for mutual security and advantage; and during the sufferings which our commerce has experienced, we have found the merchants looking to the exercise of this power, as almost their only resource and hope.

After these preliminary observations, Mr. H. proceeded to inquire, not what ought to be, but what was the Constitution of the United States? We were not, he said, in Convention, but in the discharge of Legislative functions under the Constitution; and to understand the extent of the powers intended to be granted in the second article, section two; by these words, "the PRESIDENT shall have power, by and with the advice and consent of the Senate, to make Treaties, provided

two-thirds of the Senators present concur," we must advert to the general definition of the Treaty-making power—what objects it may embrace, and how far it can interfere with Legislative power. A Treaty is a compact entered into by two independent nations, for mutual advantage or defence. Nothing can, therefore, come within the Treaty-making power but what has a relation to both nations, and in which they have a mutual interest. The object of this power is to secure to our citizens advantages in foreign countries which are without or beyond our Legislative jurisdiction, to enable the Treaty-making power to obtain which, it must necessarily be authorized to give some consideration or equivalent therefor. If the United States authorize an agent to make a bargain or purchase, the power of binding the United States for a reasonable consideration is necessarily given. Whenever the Treaty-making power departs from these rules, it is without its jurisdiction, and such a Treaty would be of no validity. Under this view of the subject, if we look into our code of laws, we shall find few of them that can be affected, to any great degree, by the Treaty-making power. All laws regulating our own internal police, so far as the citizens of the United States alone are concerned, are wholly beyond its reach; no foreign nation having any interest or concern in that business, every attempt to interfere would be a mere nullity, as much as if two individuals were to enter into a contract to regulate the conduct or actions of a third person, who was no party to such contract. He could, he said, illustrate his idea more readily by adverting to a law, mentioned as being affected by the present Treaty, which was the revenue law; which provides that certain duties shall be paid on goods imported into the United States, and on goods coming in foreign bottoms ten per cent. advance on the amount of such duties. This is a law no Treaty can repeal, admitting the repealing power in its fullest latitude, because no foreign nation can have any interest or concern in the duties payable by our own citizens into our own Treasury. All that a Treaty could do, would be to suspend or arrest its operation, so far as the citizens or subjects of the nations with whom we treated, were or might be affected by it. The only operation which the British Treaty has upon that law is, that in consideration of our being freely admitted to the fur trade and the trade into Canada, which opens to the enterprise of our citizens a vast source of wealth and advantage, we only give in return to the subjects of the King of Great Britain the privilege of bringing, by land or inland navigation, into the United States, goods for which they pay no more duties than our citizens pay on goods imported in American bottoms. British subjects have always been permitted to reside and trade in the United States, and peltry is to be duty free in the territories of each. According to this definition of the Treaty-making power, and as far as he could judge, he said, it was correct, it cannot have that unlimited extension which has been ascribed to it. It cannot be that monster which has been described as about to swallow up all the

Legislative powers of Congress; nor can there be any danger of the PRESIDENT and Senate having it in their power, by forming Treaties with an Indian tribe or a foreign nation, to legislate over the United States. The Treaty-making power cannot affect the Legislative power of Congress but in a very small and limited degree. Because a Treaty or an Executive act may, in some instances, arrest the operation or progress of a law, it is no argument against the existence of the power. In article first, section eighth, of the Constitution, a specific power is granted to Congress to provide for the punishment of the counterfeiters of the securities or coins of the United States. In another article, the PRESIDENT is authorized, generally, to grant reprieves or pardons for offences against the United States, excepting in cases of impeachment. Can any one seriously contend that the PRESIDENT has not the power of granting a pardon to a counterfeiter of securities or coins, because it would suspend and defeat the operation of a law, on a subject specially delegated to Congress? If this doctrine be true, that all Legislative power may be exercised by the Treaty-making power, Congress, under the old Confederation, had unlimited Legislative power over the States. The old Confederation vested in Congress an unlimited power to make Treaties, excepting only that the States were to be at liberty to impose like duties on foreigners as on their own people, and that the exportation, or importation of goods was not to be prohibited. Was it ever imagined that, by this general power, Congress had a right, by forming a Treaty with a foreign Power, to legislate over the States to any extent? Suppose Congress, instead of taking so much pains to persuade the States to consent to their laying the five per cent. impost, and in obtaining which they were finally defeated by the refusal of one State, after every possible exertion, had undertaken to have done it by Treaty? Would not the measures have been reprobated with one voice, and the Treaty considered as a nullity?

The next object of his inquiry was, what was the extent of the Treaty-making power granted by the Confederation to Congress? Under what limitations, and where, was the Legislative power to regulate trade and commerce? It had been shown, he said, that the Treaty-making power had been granted to Congress in the most general terms, with only the limitation mentioned: but the most unlimited Legislative power to regulate commerce rested with the States, with one exception only, which was, that no impost or duties should be laid that should interfere with any stipulations entered into in pursuance of any Treaty then proposed to France or Spain. Each State did also, by the second article, "reserve its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States in Congress assembled." There was no mention made in the Confederation that Congress should have a right to make Treaties repealing laws, yet it was considered as necessarily granted by the general grant of the Treaty-

making power. Under this power, Congress did make Treaties of every description, which received no other ratification or sanction than that of Congress; which Treaties were declared by Congress, considered by the States, and admitted by the ablest lawyers and adjudications of the highest courts of law in every part of the Union, as the law of the land, and as having operated as a repeal of all laws that were in opposition thereto. To evince this, he read two extracts from an Address of Congress to the several States, containing a resolution expressive of their opinion, passed April 13, 1787:

"When, therefore, a Treaty is constitutionally made, ratified, and published by us, it immediately becomes binding on the whole nation, and superadded to the laws of the land, without the intervention of State Legislatures. Treaties derive their obligation from being compacts between the sovereigns of this and of another nation; whereas laws or statutes derive their force from being the acts of a Legislature competent to the passing of them."

"Resolved, That the Legislatures of the several States cannot of right pass any act or acts for interpreting, explaining, or construing a National Treaty, or any part or clause of it; nor for restraining, limiting, or in any manner impeding, retarding, or counteracting the operation and execution of the same: for that, on being constitutionally made, ratified, and published, they become, in virtue of the Confederation, part of the law of the land, and are not only independent of the will and power of such Legislature, but also binding and obligatory on them."

Notwithstanding, he said, the Courts construed the Treaty as having repealed all laws repugnant to it, and had so decided in all cases that came before them, yet to remove the smallest ground of complaint, (for there had arisen dissatisfaction on account of the non-execution of the Treaty of 1783 with Great Britain,) Congress, in that Address, recommended the passing a general repealing law, which, though it could be of no use here, might give perfect satisfaction to Great Britain, that every obstruction was removed. Secondly, he read from the letter written by Mr. JEFFERSON, when Secretary of State, a letter which did honor both to the author and to the United States, the following passages, viz:

"For indeed all this (speaking of repealing laws opposed to the Treaty) was supererogation. It resulted from the instrument of Confederation among the States, that Treaties made by Congress according to the Confederation, were superior to the laws of the States. The circular letter of Congress had declared and demonstrated it, and the several States, by their acts and explanations before mentioned, had shown it to be their own sense, as we may safely affirm it to have been the general sense of those at least who were of the profession of the law. Besides, the proof of this, drawn from the act of Confederation itself, the declaration of Congress, and the acts of the States before mentioned, the same principle will be found acknowledged in several of the documents hereto annexed for other purposes."

Speaking of a letter from the Governor of Rhode Island, relative to the operation of the Treaty, Mr. JEFFERSON says:

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"Plainly implying that the absolute parts did not depend upon Legislative discretion."

"Mr. Canning, the Attorney for the United States (Rhode Island.) This act was considered by our Courts as annulled by the Treaty of Peace."

"Governor of Connecticut. The Courts adopted it as a principle of law."

"Mr. Lewis, Attorney for the United States (Pennsylvania.) The Judges have uniformly and without hesitation declared in favor of the Treaty, on the ground of its being the supreme law of the land."

"Virginia. Mr. Monroe, one of the Senators in Congress, and a lawyer of eminence, tells us, that both Court and Council there, avowed the opinion, that the Treaty would control any law of the State opposed to it."

"In New York, Mr. Harrison, Attorney for the United States, assures us, that the act of 1782, of the State, relative to debts due to persons within the enemy's lines, was immediately after the Treaty restrained by the Superior Courts of the State, from operating on British creditors, and that he did not know a single instance to the contrary. A full proof that they considered the Treaty as a law of the land, paramount to the law of the State."

"The case of *Rutgers vs. Waddington*. Waddington pleaded the Treaty, and the Court declared the Treaty a justification, in opposition to the law of the State."

"The case of John Smith Hatfield, New Jersey. Mr. Boudinot. His friends, confident in the opinion of their counsel, and the integrity of the Judges, have determined to plead the Treaty, and not give themselves the trouble of asking a release from the Legislature."

"In Georgia, in a case wherein the plaintiffs were Brailsford and others, British subjects, whose debts had been sequestered (not confiscated) by an act of the State during the war, the judges declared the Treaty of Peace a repeal of the act of the State."

And that this was a well-founded and correct opinion, Mr. H. said, had since been confirmed by an opinion of the Supreme Court of the United States. It may be said, that these were State laws that were repealed. This makes no difference as to the principle; whether there be the check of thirteen independent Legislatures to pass the laws or three branches of one Legislature; it only creates a greater difficulty in getting the law through, but does not add to or diminish the Supreme Legislative power, which must be admitted to have been possessed by the States, in as full and ample a manner as it can now be by Congress, and when similar laws were passed by the Legislatures of the several States on any subject, they had as great an operation, and as binding a force, as any law that possibly can be made or passed by Congress.

Mr. H. further said, that in May, 1787, the Convention, composed of the best informed and most respectable of our citizens, and who were the framers of our present Constitution, met for that purpose, and being perfectly acquainted with all the above recited facts, opinions and judgments of Courts, and there being seven of their number who were members of and present in the old Congress, when the Address and resolution just now mentioned was promulgated, which was done only one month previous to the meeting of

this Convention, and having before them all the Treaties which had been made under the old Congress, they proceeded to draw up this Constitution.

In the first place, in Art. I., organizing a Legislative body, and delegating to them, not all, but a part only of the Legislative power of the States, in these words: "All Legislative powers herein granted shall be vested in a Congress;" and among the specified powers, the right of regulating commerce with foreign nations. How were they to regulate commerce? Not by the exercise of the Treaty-making power. This article of the Constitution has not the least relation to that kind of power; it was Legislative power only that was meant; it vested Congress with the whole power, as far as the object could be accomplished by a Legislative act; but this power would embrace but a small part of the objects which come within the term of regulating commerce with foreign nations; it could extend no further than the bounds of our own jurisdiction. There is not a single expression that looks like authorizing them to act in any other than their Legislative character.

The Constitution then proceeds, in the second Article, to the establishment of an Executive power, to be vested in a President, and in the second section, says: "the PRESIDENT shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur." The most general terms are used, and such as under the old Confederation had been understood to embrace every kind of Treaty, Commercial as well as others, and had been exercised in the most ample and unlimited manner, and the Treaties thus formed had been declared and adjudged to have the force and operation of a law, and that they repealed all laws that were opposed to them; and these Treaties were then in full force and operation, and were the supreme law of the land. It cannot be presumed that the framers of our Constitution were ignorant of the laws of the land, or that they had not well attended to and examined Treaties, which, by the Constitution, they were again about to declare to be the supreme law of the land under the new Government. Now, if it really was intended that the Treaty-making power should not be as broad, and have the same extension and operation as had been exercised under the old Confederation, or that there was to be a distinction between Commercial Treaties and others, or that Treaties generally should not so operate as to repeal pre-existing laws, or that the concurrence of the House of Representatives, or sanction of Congress, should, under any circumstances, be necessary to give validity or force to a Treaty, how can we account for the total silence of the Constitution on this subject, and that there should not be a single sentence in the whole instrument that even looks that way? If any limitation was intended, the Convention certainly knew that it was necessary it should be inserted. When we examine the Constitution, and see with what accuracy and care it is drawn up, how wonderfully

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every part of it is guarded, that there is not a single word but appears to have been carefully examined, and when we call to mind the members of that Convention, and find them to have been the ablest and most accurate men of our country, we cannot presume that we should have been left to the sad alternative, for the purpose of explaining so important an article of our Constitution, which might have been so easily made definite, to be obliged to resort to the British House of Commons for precedents, and those too which were derived from the most turbulent periods of the Government of that nation; when, it is a possible case, that the change of a Ministry, or the rage of party, might have been more immediately the object of pursuit than the true interests of the nation; more especially as the practice of our own Government, and the legal opinion of our own country, were directly opposed to such a construction. But if all this might be supposed not to have had sufficient weight to have induced the Convention to have introduced such a limitation, or some intimation that such limitation was intended, they must have supposed it necessary when they handed out with the Constitution, which were declared by the ratification thereof to be the supreme law of the land, Treaties of every description, Commercial as well as others. To me, the language of this transaction is, we have, by one article of this Constitution, granted the Treaty-making power, in general terms, to the President and Senate, and here are samples of the Treaties we mean to authorize them to make. This was also, as far as he could learn, the understanding of the State Conventions and people generally, and appears clearly to have been the understanding of the Convention of Virginia. He would not resort to the debates of the Convention, or the observations or opinions of individuals. That would not be an infallible criterion to decide what was the opinion of the people; but he would advert to the amendments of the Constitution, which were sanctioned by the Convention which adopted this Constitution, and proposed those amendments thereto, which were sent on to Congress with the Constitution, and entered at large on the records or Journals of Congress. These amendments must have been the expression of the opinion and will of the people, otherwise the Constitution cannot be considered as an expression of their will. In those amendments are these remarkable clauses, viz:

"That no commercial Treaty shall be ratified without the concurrence of two-thirds of the whole number of the Senate; and no Treaty, ceding, contracting, restraining, or suspending the territorial rights or claims of the United States, or any of them, or their, or any of their rights or claims to fishing in the American seas, or navigating the American rivers, shall be made, but in cases of the most urgent and extreme necessity, nor any such Treaty be ratified without the concurrence of three-fourths of the whole number of the members of both Houses respectively."

"And the Convention do, in the name and behalf of the people of this Commonwealth, enjoin it upon their Representatives in Congress to exert all their in-

fluence, and use all reasonable and legal methods to obtain a ratification of the foregoing alterations and provisions, in the manner provided in the fifth article of the said Constitution; and in all Congressional laws to be passed in the mean time, to conform to the spirit of those amendments as far as the said Constitution will admit."

Here is the voice, not of a few individuals, but of the people of Virginia, expressed, not on a sudden or trivial occasion, but when they were called for the express purpose of deliberating and deciding on an instrument the most important ever offered to the consideration of a nation; an instrument which was to bind thirteen independent sovereignties into a confederated Empire. Here are the standing instructions of the people of Virginia to their Representatives in Congress. These instructions have never been revoked or annulled, and speak in a voice too loud not to be heard by the gentleman [Mr. GILES] if he really feels that reverence, nay adoration, for the voice of the people, as he declares; he now has an opportunity of manifesting to the world, that he did not use those strong expressions as mere words of sound, without meaning, as the words, the "voice of the people," and "love of country," are too often used, by conforming to those instructions, and aiding a provision for carrying into effect a Treaty which has been made under the constituted authorities of the country, and has been ratified with the concurrence of two-thirds of the whole number of the members of the Senate, and has become of binding force even according to the true spirit of those amendments. The late Legislature of Virginia had acted a more consistent part, and though he did not approve of the object of their resolutions, yet he thought that in admitting the construction of the Constitution to be according to its obvious meaning, and to the understanding of the people, expressed by their Convention at the time of its adoption, and not attempting to rob it of what, in his opinion, is one of its brightest gems, by explaining away an express and important part of it by construction, though to obtain objects which they appeared to be seeking with great anxiety, but resorting to an amendment of the Constitution, that assembly had done honor to themselves and the State. This practice of doing away the Constitution by construction, if once admitted, would lead to the most dangerous consequences.

Upon the construction contended for by some gentlemen, it would have been improper to have used the word *make*; unless the Treaty was to be completed by the President and Senate, it undoubtedly would have said, the President and Senate shall have power to negotiate Treaties, which, when sanctioned, according to the forms prescribed by the Constitution, &c. That this House can, by their own act, sanction a Treaty seems to be pretty much given up. The Constitution no where authorizes them to manifest their Legislative will, but by an act or resolution concurred in by the Senate, and sent to the President for approbation. If any sanction of the Legislature was intended, two-thirds of the Sen-

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ate would not have been made necessary in the first instance.

Great stress has been laid on the words, *under the authority of the United States*, and in the sixth Article, which declares, "That the Constitution, and laws of the United States which shall be made in pursuance thereof; and all Treaties made, or which shall be made, under the authority of the United States," as importing something more than what could be done by the PRESIDENT and Senate, and as pointing to the Legislative powers of Congress; a little attention to the subject will show, that those words are not used in that place for the purpose of limitation, but as descriptive of the kind of Treaties intended. Under the Confederation the States had reserved a right, with the consent of Congress, to make Treaties; it would not have done, therefore, to have used the word *Treaties* only, for that might have included other Treaties than those made by the United States. The word *Congress* would not answer; for that would have excluded Treaties made under this Government; it would not have done to have used the words *President and Senate*; that would have excluded Treaties made by the old Congress. The words, *under the authority of the United States*, are the only words that would give a definite and concise description of the Treaties intended. It will be well to inquire where is the authority of the United States? Not in Congress, but in the people. He was happy that he was born in a country where there was no supreme power, but what rested in the people, who have manifested their will by this Constitution, which they have made and promulgated as a rule to guide all the administrators of the Government. This Constitution, which was intended, and he hoped would prove, the permanent foundation of a free and happy Government, delegates certain powers to each branch, and each is independent of the other, excepting as far as the nature of the case, or the Constitution authorizes or gives a control or check. What part of the Constitution authorizes Congress to claim the right of being considered as the authority of the United States? In the first Article, they are vested with certain Legislative power, but their power is limited, and even Congress, in the discharge of its Legislative functions, acts under the authority of the United States. In the second Article, the PRESIDENT, with the advice and consent of the Senate, is authorized to appoint Judges of the Supreme Court. Under what authority do they act? The PRESIDENT is made Commander-in-Chief of the Army. Does he not act under the authority of the United States, independent of Congress? Could not a pardon be plead in a Court of the United States, as being given under the authority of the United States? in short, every act done under the Constitution, is done under the authority of the United States.

Making laws and making Treaties are very different and distinct in their nature, one being a declaration of the will of the nation by a Legislative act, and the other being a compact entered into by two independent nations. Both are very

important in their operation, and such a construction ought to be given to the Constitution (if at all doubtful) as will admit both to have the freest and fullest exercise of their power. The construction contended for by some gentlemen would very much restrain, if not annihilate the functions of the Treaty-making power, and give the Legislative power almost an absolute control over it; but the construction which he contended for, would admit the Treaty-making power to a fair and full exercise of its functions, and would operate as a very small restraint upon the Legislative power. This construction ought therefore to prevail.

For these reasons, and others that had been stated by other gentlemen in a more striking and forcible language than was within the reach of his abilities, he was, he said, decidedly of opinion that Treaties, when made and ratified by the PRESIDENT, by and with the advice and consent of two-thirds of the Senate, are made under the authority of the United States, have the binding force of a law, repealing all antecedent laws repugnant thereto, as a natural consequence of their having the force of a law; for it is absurd to suppose there can be two laws directly opposite to each other, and in operation and force at the same time. It is an invariable rule, that the last law repeals the former. Such a Treaty is, however, capable of being operated upon, suspended, or annulled, so far as the citizens of the United States are concerned, by a subsequent Legislative act. This has been questioned, but no satisfactory reason has been given why it should not be so; there are many which make it appear necessary, otherwise the Government could not arrest the operations of a Treaty which had once become a law, though the other party should fail to fulfil some important article, or be guilty of a direct violation of the whole, but by a declaration of war; nor, if found to be unequal, and to have been attained by the fraud and bribery of the other party. This right has generally been lodged in the same hands that had the power of declaring war. It would seem that the power of declaring war must naturally involve in it the power of doing lesser acts, which might in their consequences lead to war, there being no superior to whom resort can be had to determine when a nation has justifiable cause, according to the Laws of Nations, for departing from a Treaty, or refusing to observe it. From the nature of the case, it must rest in the judgment and discretion of each party, under this penalty, however, that a misjudging will give the other nation justifiable cause of war. By our Constitution, the power of declaring war is vested in Congress, and it would appear to be a pretty just inference to conclude, that they must also exercise Legislative discretion in all the other cases just enumerated. This power must be lodged somewhere; it will not do to permit every individual in the nation to judge for himself when a Treaty ceases to be binding. That it would be right or honorable for a nation, for slight causes, to refuse or neglect to execute a Treaty he did not hold or believe; but a nice observance of a

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Treaty, and a strict regard to public faith, was of primary importance to every nation, and that a nation would ultimately find such a line of conduct highly to their honor and advantage. All he contended for was, that the Law of Nations admitted that there were causes which would justify a nation in departing from, or refusing to execute Treaties; and that Congress, in their Legislative capacity, were judges of those causes, so far as our nation might be concerned, and had power to pronounce that a Treaty was no longer the law of the land, and when they did pronounce they must be obeyed.

A gentleman from Virginia [Mr. MADISON] observed, that if no Legislative sanction was necessary to give validity to a Treaty, and there being no limitation on the Treaty-making power in the second article of the Constitution, it might admit of a doubt whether the United States might not be enabled to do those things by Treaty which are forbidden to be done by Congress in the first article; but no such consequence can follow, for it is a sound rule of construction, that what is forbidden to be done by all the branches of the Government conjointly, cannot be done by one or more of them separately, therefore, those restrictions will operate upon all the following articles of the Constitution as effectually as if they had been repeated in each. That instrument is so admirably constructed, that there is not a single superfluous word to be found throughout the whole, nor a word used that does not seem to have been most carefully examined and cautiously chosen.

It has been asked, shall this House, then, have no control over the Treaty-making power? He could answer, he said, to his own satisfaction, that there was, in the 9th section of article I, one that was sufficient to afford every reasonable security against the abuse of that power, which is in these words: "No money shall be drawn from the Treasury, but in consequence of appropriations made by law." Those who contend for the most limited construction admit that this clause vests in each branch the power of withholding an appropriation. The very circumstance of appropriation laws being necessary, which it is in the power of each branch to defeat, makes it operate in a degree as a check. If it was not intended to have that operation, but that appropriation laws were a matter of course, the clause does not appear to be of sufficient importance to be entitled to a place in the Constitution. The money might as well have been permitted to have been drawn from the Treasury by the law creating the obligations to pay, or that matter might have been left to Legislative provision. No one will pretend that an appropriation law is what creates the obligation upon the Government to pay, or that it has any relation to a revenue law. This clause being in the Constitution, ought to be admitted to have some important operations, if any such it can have upon a fair construction. A very important one, he said, readily suggested itself to his mind, which was, that it was intended as a check, not only upon the Treaty-making power, but upon the Legislative power also; for, if it operates at

all, it must operate equally upon both. All Governments are sufficiently prone to be lavish of public money: it never could be necessary to adopt principles that would facilitate the issuing money out of the Treasury, but all the checks which the art of man hath ever devised, or have ever been put in practice, have not, in most of the Governments of which we have any knowledge, prevented the too lavish expenditure of public money. Whether the check here contemplated was founded in policy, or prudence, or whether it may not in its operation produce great embarrassments to the Government, is not now under consideration, or proper for us to decide. They found this clause there, and he said he felt an irresistible impression on his mind to give the Constitution such a candid and fair construction as to admit every part to have its full operation.

It was to him altogether unaccountable, that the Constitution should vest such an important power, which it is admitted is here given; a power which was so often to be called into exercise, if at the same time the right of exercising Legislative judgment and discretion was not intended. He looked upon it, however, to be a very different and more limited discretion than it would be right to exercise on the first formation of a law; in the latter case, it would be an unlimited discretion; but where a law had been passed, or a Treaty made, whereby the public faith was pledged, neither branch would hastily, or upon slight grounds, refuse the necessary appropriations. It is admitted they can do it, but, because a right or power may be abused, it is no sound argument that it does not exist. Every existing law or Treaty, he admitted, created a legal obligation; but every legal obligation did not involve in it a moral obligation to comply. In case of individuals, there may be a legal obligation upon one party to perform his contract, and a moral obligation on the other party to forbear to enforce it. Upon this ground, Courts of Conscience, or in other words, Courts of Chancery, are, in almost every country, empowered to relieve, in certain cases, against claims or demands which might be enforced in a Court of Law. In legislation, the discretion and judgment of every member must be his court of conscience; no one can measure his discretion by that of another; if the door is at all opened, and discretion is admitted in the smallest degree, there is no drawing the line. It was not an apprehension that the two branches of the Government who have negotiated this Treaty, were inclined or about to do anything injurious to the country, that influenced his mind; he believed there never was a time when they more merited the confidence of the people; but this Constitution was meant as an abiding thing, and he hoped we should do nothing that would disappoint this expectation; it was calculated for tempestuous as well as peaceable times, and he could not but believe that some little controlling power or check would be useful even upon the best of men. It might, at least, make them a little more cautious and circumspect, and sometimes prevent the hasty passage of a bad law, or adopt-

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tion of a bad Treaty. He believed, however, that in practice it would be found that the Representative branch would as often need this check as either of the others. Happily for this country, each branch is Representative. Judges of our Courts are commonly from the best and most honest of our citizens; yet, it will be generally admitted, that where their judgments are liable to the revision of another Court, they are apt to exercise a little more caution, circumspection and diligence, in examining and fixing the principles upon which their judgments are grounded, than might otherwise take place.

No great inconvenience, he said, could arise, from admitting the existence of this check. In such a government as ours, there must be a degree of harmony and good understanding between the different branches, or the Government cannot go on. The same spirit that would withhold an appropriation, where it was right and proper it should be made, would also prevent the passage of all necessary laws; and if either branch of this Government could be supposed (an idea he could hardly admit to be possible) to be wicked enough to abuse this right, and exercise it improperly, that branch would not hesitate to exercise the power, which cannot be denied to exist. On the other hand, he could perceive many advantages which might arise from the existence of this check; more, however, by way of preventing the introduction of evil into the Government, than of its being often necessary to exercise it by way of correction. It has ever been considered as a wise policy, so to calculate laws as to prevent as much as possible the introduction of evil, rather than to inflict very severe penalties on offenders.

There was nothing, Mr. H. said, in those extracts from the Journals of this House, read by the gentleman from Massachusetts, [Mr. LYMAN,] and since urged by the gentleman from New York, [Mr. LIVINGSTON,] which at all militated against the construction which admits that the PRESIDENT and Senate have the whole power of making and ratifying Treaties, without the concurrence or approbation of this House, or of Congress. All that appeared from these extracts was, that the PRESIDENT, as also the Senate and House of Representatives, have always supposed that an appropriation law was necessary to enable the PRESIDENT to draw money out of the Treasury, and that each House have an unlimited discretion as to the sums to be appropriated, or whether any thing at all, for the purpose of holding a Treaty, or for foreign intercourse; neither of these propositions can be denied. An express clause of the Constitution requires the first, and as to the second, most undoubtedly before a negotiation is commenced, or any stipulations entered into, the discretion of all the branches of the Government is unlimited. If no money is appropriated which can be applied to defray the expense, it is clear no Treaty can be held; so if the PRESIDENT has the power of sending Ambassadors or Ministers to foreign nations to negotiate Treaties, or for other purposes, it is equally clear that if no money is appropriated for that purpose, he cannot exer-

cise the power. Congress have, therefore, always appropriated such sums of money as they judged proper for holding Treaties with the Indian tribes, and foreign intercourse. As to the extracts from the PRESIDENT's instructions to the Commissioners for holding an Indian Treaty, which have been read as a very striking case, where the PRESIDENT informs that twenty thousand dollars were appropriated to that object, and that no more could constitutionally be expended: Very true, there could not be more than that sum constitutionally expended for the expenses of the Treaty and presents to the Indians; but did the Commissioners, or the PRESIDENT, understand that they could not constitutionally stipulate in the Treaty for the payment of further sums? The fact is, that in the Treaty with this very tribe, a further and annual sum is stipulated to be paid, and appropriations have since been made for the payment, and it cannot be made without; but the consequence which those gentlemen draw from it by no means follows. He had not, he said, been able to find in the Journals or proceedings of this House any instance, and he called upon the gentleman to show one, where the PRESIDENT, in his communications, has given the least intimation, or either House have done a single act that recognises the right of this House, or of Congress, to interfere in the Treaty-making business. Their practice has uniformly been directly the reverse. The PRESIDENT and Senate have been in the habit of making Treaties ever since the formation of this Government. What one has ever been sent by the PRESIDENT for, or has received the concurrence or sanction of this House, or of Congress, except so far as to make appropriations to carry them into effect? It has been said those are Indian Treaties, and that the present is the first with a foreign nation under this Constitution. He called on the gentleman to show in what clause of the Constitution any distinction is made between Indian Treaties and any other Treaties. The words "Indian Treaties" are not to be found in the Constitution, and the PRESIDENT and Senate have no power to enter into such Treaties, except under the general power granted to make Treaties. It is also but in one section that power is granted to Congress to regulate commerce with foreign nations, and trade with Indian tribes. He wished the gentleman would point out the authority that would warrant the adoption of a different line of conduct in the two cases; but he should, he said, forbear any further remarks on that point, and should not attempt to answer the arguments of other gentlemen, as he had already taken up too much of the time of the Committee, and his object in rising was rather to express his own sentiments than to remark on those of others; but he asked the patience of the Committee, whilst he made a few observations more directly pointed to the resolution under consideration.

He had not been impressed with the belief, that the passing the resolution would violate the Constitution. They might, he supposed, ask for any information, or such papers as were necessary to enlighten their minds, and enable them under-

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standingly to exercise their Legislative functions. The Executive also had an undoubted Constitutional right, and it would be his duty to exercise his discretion on this subject, and withhold any papers, the disclosure of which would, in his judgment, be injurious to the United States; for it is to be presumed that the House of Representatives never would intentionally ask for such papers. The discretion must be lodged somewhere, and no where can it be so well exercised, and more safely trusted, than to the Executive. Mr. H. said he had two objections to the resolution: first, that it was improperly and indelicately worded. It was true that he loved and respected the man as one who better deserved the love and respect of the people of the United States than any one that ever has or perhaps ever will live whilst we are known as a nation; but he was constrained in this case to say, he revered the office as the representation of the majesty of the people, and this House, as the Representatives of the people, ought never to approach that office but in the most respectful terms. In a call of this kind, which may reach papers of a very delicate and confidential nature, the resolution ought to be so worded as to leave to the PRESIDENT, upon the face of it, the full exercise of the discretion vested in him; but that is not the case as this resolution is now worded; for it would appear, that no discretion was left to the PRESIDENT, excepting to withhold papers that relate to pending negotiations; and if he should withhold any others, it might seem to thwart the call of the House. His second objection was that no definite object was mentioned to which this information can apply; and it would be improper to call for information which could be of no use when obtained. As to impeachment, no gentleman had mentioned that in any way that had the least appearance of seriousness; as to saying we wanted information generally, without pointing to any object to which it is to apply, we might as well call upon the PRESIDENT to send his whole Cabinet at once. Unless some specific object is mentioned, the PRESIDENT cannot know how to select the information that would be pertinent or proper. In calling for information from the Heads of Departments, we have always pointed out what kind of information was wanted, and stated the reasons for calling for it, and the objects to which it was to apply, and never called upon those officers to send all the documents and papers relative to any particular subject indefinitely. This mode of doing the business would involve this House in difficulty; but, by pointing out the information wanted, and the object to which it is to apply, that only is selected which is pertinent. If this rule is observed in relation to Heads of Departments, much more ought it to be regarded in this case, where we are calling upon the PRESIDENT to unlock his cabinet and send us his secret and confidential correspondence with a Minister sent to negotiate a Treaty with a foreign nation. In short, from all the circumstances and observations which attend this call, it seemed to him more to assume the appearance of too great a degree of curiosity in the House of Representa-

tives than a serious pursuit after information, which, it is expected, can be used to any valuable purpose; he should, therefore, be against the resolution.

MARCH 23.—In Committee of the Whole, on Mr. LIVINGSTON'S resolution.

Mr. GILBERT said, he hoped he should be permitted to take some view of the subject which had been already so long in discussion, and still under consideration. He said, that, from personal indisposition, the want of health, he had not contemplated taking any particular share in the debate; that his first impression, when the resolution was at first called up in the House, had not been withheld. But, said he, considering the ardent strife and combat of principles, of fundamental points, immensely interesting, in his judgment, to the Constitution, Government, reputation, glory, and welfare of this country; and perceiving the high ground strenuously taken by some of his colleagues, in opposition to his own judgment on the occasion, he was impelled, as well from the respect he owed to himself, as from the duty he owed his constituents, to explain and vindicate the sentiments he entertained on the subject—sentiments which would influence his vote on the proposition.

When the resolution, he said, was first presented, it afforded to his mind no pleasant presage of the disposition of the mover, or of his friends, relative to the Treaty to which it refers; that when it was candidly requested of them to disclose their object, and state the particular purpose why they resolved to have those particular Cabinet papers, it was evasively replied that they wanted them for general information. Being further urged for a more explicit specification of the precise object, it was said that, as Constitutional questions respecting the validity of the Treaty would probably arise, these Cabinet papers might be necessary to clear up and determine such points; being plainly told they could be of no use or avail on such questions which could only be decided by comparing and examining the instrument with the Constitution, it was then suggested that they might be necessary in case of an impeachment, which, though not contemplated or expected, might be hereafter found expedient. But, more decisively to sound the resolution, it was openly asserted and insisted on that they wanted these confidential papers in order to judge of the merits and expediency of the Treaty, in order to approve or disapprove, adopt or reject it, as a matter of no obligation or validity, without the sanction of this House, or approving act of the Legislature. On this ground, he said, the dispute principally arose, which involved the great principles of the Constitution and Government. He had, he said, been attentive to the discussion during a long debate, and should now endeavor to examine the great points in controversy. Many gentlemen had so examined the subject that nothing really new could be expected from him. The principal question, to wit: whether the House of Representatives had or had not, by the Constitution, a co-ordinate right with the Senate in making Treaties,

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he should first consider, together also with the distinction between one sort of Treaties and another, made by some gentlemen. He would, however, first remark, that the merits of the proposition seemed to be lost sight of, in the general debate of abstract principles, which he thought very unnecessarily connected with it, and only became so from the ground which had been chosen to support it. He would also remark, that, in general, he had been pleased with the temper of gentlemen manifested in the discussion; but was sorry to observe some instances to the contrary, and to hear some gentlemen say, that, if the resolution should not be adopted, they should vote against the Treaty, be against carrying it into execution, admitting it to be the very best Treaty that ever was negotiated. He hoped, he said, that he had misunderstood those gentlemen, and that such was not their meaning; if it was, he hoped they would reconsider it, and renounce such sentiment.

Mr. G. then adverted to the first section of the first article in the Constitution; observed upon some remarks which had been made by gentlemen opposed to his principles. On this section he observed that, if the word *all*, which had been so emphatically dwelt upon by them, conveyed an exclusive power of legislation to the Senate and House of Representatives, the only bodies therein named, he would wish to know how the PRESIDENT became invested with his Legislative power, as a constituent part of the Legislature? for, upon their construction, he could not be entitled to any share or degree of this power. He said, that it had been repeatedly remarked, that the subsequent specification of the powers granted to Congress, in the same article, section eighth, must operate so as to consign to Congress, exclusively, all the objects therein specified, and so far, at least, restrain the general power afterwards granted to the Treaty department. This he denied. He said, this specification was made, in his opinion, for another purpose entirely. He said it had been a pretty generally received principle of construction, that all powers not expressly mentioned or necessarily implied in the Constitution to be therein granted, were reserved to the people of the respective States. The words in the first section, "herein granted," were noticeable in this view, and related to the powers therein not granted. To determine precisely what powers were by the Constitution granted to Congress, as well as what were reserved, such specification was made; and not for the purpose of abridging the general grant thereafter made of the Treaty power, and therefore could not have any such effect. He said, there was no specification made in the grant of the Treaty power, because no such reason for it existed, as the whole Treaty power was granted without any reservations thereof to the States. He said, it was incorrect to decide what power any department or branch of the Government possessed, merely from the name or general denomination of such department. That, in some countries, in absolute monarchies, and despotic Governments, there was no distinction to be found, all

resided in the same person. That, in Governments framed by compact, as in our own, and arranged into several distinct departments, particular powers and functions expressly assigned to each—when the question arose, what any of these departments possessed, it was to be determined, not by the name or denomination of the department, as whether Legislative, Executive, or Judicial; but from the designation of the Constitution, and precise mode or form prescribed for them to exercise such power. He said, he considered that by our Constitution, the PRESIDENT and Senate were constituted a particular department for exercising solely the Treaty power. It need never be a question, or deemed at all material, whether this power partook of a Legislative or Executive nature, or of each. It was observable, however, that the framers of the Constitution well considered the nature and quality of this power, and, as if they judged it to partake of each, connected with the Executive one entire branch of the Legislature, restricting its operations, at the same time, to the necessity of acting by two-thirds of its members. Here, he said, was the check, here was the Legislative check, and, he religiously believed, the only check intended by the Constitution. This branch of the Legislature, he said, was selected for qualities which eminently rendered them the most fit for the exercise of this important power.

Had the House of Representatives, he asked, any right to complain, because it had not been selected also with the Senate, or because it had not been selected for such department instead of the Senate? In a Government like ours, said he, of departments, should one branch complain because it had not been placed in the station of another? Should the foot complain because it had not been made the hand, or the hand murmur because it has not been made the head? Should this House complain, because it had not been put in the place of the Senate? or should the PRESIDENT complain because he was tied down and trammelled by these two members? On this point, also, he adverted to the circumstance of equality of State sovereignty being insisted upon and retained by the respective States in the Senate of the United States. He was conclusively of opinion, he said, that, by our Constitution, the PRESIDENT and Senate possess the Treaty-making power, and, together, constituted a particular department for that express purpose.

He would next consider, he said, the distinction which some gentlemen had taken on this subject, between the different sorts of Treaties, as between Treaties of Peace and Amity, and those of Commerce.

He asked, where this distinction could be found? He could not find it in the Constitution. He could not find it in his imagination, as he could not conceive such distinction could consistently exist in the nature of things. It is said, in support of this distinction, that our Treaty department may make a valid Treaty, provided such Treaty does not touch anything or object lying within the sphere or jurisdiction of legislation; but, if it at all comprehends anything within such ground or jurisdic-

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tion, such Treaty is of no validity without the sanction of the Legislature. This, said he, is supposing the sovereign will of the nation cannot make a rule, or law, otherwise than by its particular Legislative body, and in the particular form or mode prescribed for that particular organ to act. The nation acts by different organs: by its Legislative organ, to wit, the Legislature; it can only act upon things within the Territorial jurisdiction of the nation: but by another organ, it can act beyond this sphere, as by the organ constituted to exercise the Treaty power. This power exists, and must exist, inherently in every Government. It may be concisely defined to be the power to accomplish those objects which no other power or organ can effect. If this is the power of the nation, to be exercised for the nation, it has a right to use all the things or means belonging to the nation, reasonable and fit, and which are necessary to accomplish the great objects of the nation, beyond the jurisdiction and power of any other national power, or organ; for, otherwise, the interest and important objects of the sovereign will would not be accomplished at all.

The distinction, said he, made between Treaties, whether of one sort or of another, cannot therefore exist. He said, no such distinction could be supposed to have been entertained by the enlightened framers of the Constitution, for they had made no such discrimination. The terms they had used in granting this Treaty power could not possibly imply any such distinction, and if we were to look to the terms they had used, and to our own former Government, for the most probable source of their meaning, examine all the Treaties ever made by this country, and he said he believed we might also examine every Treaty existing between other nations, and we should find no such distinction, or possible ground for it. All will be found to comprehend objects more or less lying within the ordinary sphere of legislation, as exercised by one organ for legislating and making statutes—this construction must fail. He asked, if any Treaty with a foreign nation, negotiated in a foreign country, by Ministers despatched for the purpose, could be carried on without some expense to the nation? And if such expense would be defrayed without money? And if such money could constitutionally be advanced without appropriation made by law? If not, then the difference contended for between a valid and an invalid Treaty, could not exist. He would, he said, next proceed to consider the objection which had been made on the ground, that, upon this doctrine, there would exist two supreme Legislative powers acting without control on each other upon the same persons and things, within the nation.

Such, he observed, had been said and relied upon as the unanswerable objection. He had, he said, already remarked upon a principle, in looking at the distinction contended for, just noticed, which would discover, in his opinion, the fallacy of this supposed unanswerable objection. The sovereign will of the nation, acting by or through its constituted organs, regulates and controls everything within its power. The Legislature being

but one organ, by which it acts, is destined to manage those things lying within the Territorial jurisdiction only, and can exercise or extend the sovereign will of the nation no further. The interest of the nation, arising from foreign intercourse, its objects connected with foreign nations, can be managed and accomplished by the Treaty department, by allowing them a sufficient portion of the national power to accomplish its objects, and he believed it could not be supposed that this department were not intended to possess all such powers as the Treaty power required, being designed by the nation solely as an organ for the exercise of this power. Whatever, then, this organ transacted with foreign nations, which reasonably and necessarily involved such objects of the nation, lying within its Territorial sphere, as were naturally connected with the great objects of foreign intercourse, was done by the sovereign will of the nation, and must and would be respected as such, and as such was equal to any declaration of its will, by any other organ in the Constitution. The rules and regulations prescribed by the nation through this organ are, he said, of that transcendent authority that would nullify any impediment from any other source. The acts of this organ of the will of the nation become obligatory upon the nation and laws to the citizens and members of it, so as to repeal any law of the Legislature repugnant to this sovereign will of the nation. This, he said, had always been the received doctrine, even in our own country and Government under the Old Confederation. The same Treaty power there existed, and was exclusively exercised by the several States in Congress. The acts of this power, exercised by them, were always considered sovereign, controlling laws, to which the State Constitutions and laws yielded. It was, he said, the same thing now, operating upon the same principle; therefore, the objection, that two opposite independent Legislatures were constituted within the same nation, must fail; as such a thing had no existence—the supreme authority of the nation being the same, and equally to be respected, when expressed by one organ as by another.

Mr. G. then asked, whether, from this view of the subject, a Treaty could not constitutionally be made by the department constituted for the special purpose of making Treaties, without the co-operation of this House? Certainly, he said, of this he had no doubt. And he was persuaded, the distinction which had been taken between different sorts of Treaties could not exist, without operating an extinguishment of the Treaty power of the nation, which could not be admitted. This power being the authority of the nation had, he said, as he had already observed, a right to use all the reasonable and proper things or means of the nation, necessary for accomplishing its objects for the interest of the nation. In article 6th of the Constitution, Treaties made under the authority of the United States were declared to be laws of the land; yet, it was denied by the gentlemen opposed to this doctrine, and to satisfy this declaration in the Constitution, it was contended, very gravely by the gentlemen, that this particular de-

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claration, so far as it comprehended Treaties, only related, from the succeeding words in the same article, to the individual States, so as to bind the State Judges; and one of the gentlemen from Virginia had said, there also resulted a problem how the State Legislatures were to be affected, as the Judges only are said therein to be bound by such Treaties. For his part, Mr. G. said, he could not perceive the problematical mystery which seemed so forcibly to have presented itself to the mind of that gentleman; for, even allowing this article only to relate to the individual States, any Constitution or law therein to the contrary, as expressed, and that the Judges should be bound thereby, he said he could not possibly conceive how the State Legislature, by acting, by legislating, one way or the other, could constitutionally affect the operations of a Treaty.

It was impossible, Mr. G. said, for him to admit the idea that Treaties, which had the effect of a law upon all the individual States, should have at the same time no such effect upon the United States. He said, if the absurdity of any thing were mathematically capable of demonstration, this idea was so, as opposed to the truth of a self-evident proposition, viz: that a Treaty should affect and bind all the parts, and at the same time not affect or bind the whole. He would notice another objection which had been urged as decisive against admitting Treaties to be laws, or having such effect, the declaration made in the Constitution notwithstanding. It had been said, that Treaties could not be considered as laws, if they require the aid or acts of the Legislature for their execution. Can this idea be sound? Do not many laws of our Legislature require the aid and acts of the Executive for their execution? Or do the gentlemen suppose it no law, or a very poor one, that cannot execute itself? He thought such logic could never satisfy the meaning of the Constitution. The expressions in the Constitution declaring Treaties to be laws, were comprehended in the same sentence and expressed by the same words with the Constitution itself and laws of the United States. As well, then, might it be said that, by the same construction, the Constitution and laws of the United States only related to and bound the Judges of the individual States. It had also been said by gentlemen, who seemed to wish to find some meaning for the words of the Constitution which would suit their doctrine, that the words therein mentioned, under the authority of the United States, meant only and exclusively Congress, comprehending the Legislature only; but this was too palpably absurd to be dwelt upon. The great and alarming objections which seemed constantly to be resorted to, and into which Mr. G. said, all others may be resolved, was not that the President and Senate were not fit to exercise the Treaty power, nor, indeed, that they were not the most fit for that business; but, admitting all this, it had been seriously stated what they might do were they to abuse the power and trust placed in them by the Constitution. They might, it was said, combine with some foreign nation, league themselves against our own

country, introduce and establish nobility, aristocracy, despotism, abolish our own Constitution, laws, liberty, and religion.

Mr. G. said, this was a frightful picture; and suppose they should thus attempt to abuse their power, or that any other department, or all combined, should thus attempt to abuse their power, where would be the remedy? He should be very sorry, indeed, to be without a remedy. The remedy, the sovereign remedy, for all intolerable abuses of power, rests in the rights of man, and is to be found in this country, every where: but he hoped there would never be occasion to resort to this remedy. The objection certainly was no argument to prove the want of suitable power, for it only went to the abuse of legitimate authority, and was as applicable to all other cases, and to all other departments as to the one at which it was aimed. The history and practice of the British Government, of Spain, and other foreign nations, have been resorted to by the gentlemen on this occasion to support a doctrine which appeared to him not only repugnant to our own Constitution, but never before contemplated by our own Government. Gentlemen had told us of civilians, of jurists, and sages of public law, but for his part he had never, in the small course of his reading, except among our own countrymen, seen any one who ever saw or contemplated the American Constitution, nor did he believe that there was one to be found out of the whole class, up to Solon, the Grecian sage, who had ever entertained ideas of such sort or plan of Government. As to the doctrine of checks, which had been so much insisted upon by the gentlemen in favor of their positions, he said he would make a few remarks in order to show how in his judgment, that doctrine was to be understood and applied. Checks in Government, limited and constituted as ours is, if misunderstood and misapplied, would produce more injury than when rightly applied, they could do good. He said, he never understood, in regard to Constitutional checks in Government, that part only of a whole branch or department could check a whole department, but always supposed that nothing short of a whole department could check another. The Legislature could check the Judiciary; so the Judiciary might, in some cases, in order to guard the Constitution, check the Legislature; but no constituent part only, or part of the Legislature could do this. It was true that, in a particular department, consisting of constituent branches, who could only act in co-operation, one of these branches might operate as a check to another, as was the case in the Legislature, where the benefit and security from checks had, to our own observation, been conspicuously eminent; but the check here contended for was to arise from one branch of the Legislative department, only, and operate against another distinct separate department—the Treaty-making department; which was, in his opinion, quite contrary to the principle of this doctrine of checks.

Mr. G. said, he would advert to the objection which had been greatly urged and relied upon

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against the doctrine he advocated, to wit: the want of right, Constitutional power, and discretion in this House to withhold appropriations necessary for executing the Treaty, or in any manner to resist and repel this compact. Mr. G. said, if it was allowed to be a proper Constitutional Treaty, it having been completed by its ratification and exchange, it was obligatory, in point of moral and political obligation, upon the parties, and only remained to be executed; and, if so, he considered it incumbent on the nation to fulfil it, and consequently the duty of its Representatives to do whatever was proper and necessary for such purpose. They had, in such case, then, no other discretion than as free, moral, intelligent agents, in choosing and doing right or wrong. Every honest contract, made voluntarily by intelligent agents, created a moral obligation. Every moral obligation ought to be regarded. No one will say the contrary. When we feel this obligation, can we complain of the want of freedom and right to disregard it? Surely not. But, said Mr. G., every engagement or compact may not have this quality, may not create any such obligation to regard it. It may be, in this respect, so destitute of honesty, so replete with corruption and baseness as to be altogether void. This would depend upon circumstances. These circumstances we may, we ought to look to; and, if we found the Treaty attended with such circumstances, we were bound to resist and repel it. This was a duty incumbent upon us, which could not be dispensed with; but this right, this indisputable right, Mr. G. said, resulted from principles entirely distinct from the principles which had brought on this discussion. They did not result from any Constitutional right or power of making Treaties; they did not proceed from a ground which gentlemen had assumed of our exercising at all the Treaty power, or having a right to affirm or disaffirm such compact as a constituent branch of the Treaty department; but, from principles of self-preservation, of natural right, paramount to all Constitution and law. From confounding principles and things so entirely distinct, Mr. G. said, apparently by some gentlemen, or not leaving them sufficiently distinguished, had, he believed, occasioned great part of that diversity of opinion so visible on this subject. If a Treaty should be replete with all the terrible evils that have been frightfully described to our imagination; or, if it should contain any one of them, or any thing else which we deemed intolerable and corruptly designed for our ruin, we should repel it, at the hazard of war or any thing else; choosing, as upon all other occasions, the least evil of the two. But this right of thus resisting or repelling a void Treaty, will not apply to one which is not void, that is, not destitute of moral obligation—will not apply to a compact that may be merely considered a hard bargain. And here, Mr. G. said, as his colleague had borrowed from the poets, he would, on this point, since it occurred, refer to one poetically describing the character of the good man, saying, "though to his own hurt he swear, still he performs his word." The principles of resist-

ing or repelling a corrupt, void Treaty, being understood, and entirely different from the principles contended for on the ground of our sharing in making a Treaty, Mr. G. said he hoped there would be some reconciliation and less diversity of opinion on the point discussed. As to the merits of the resolution, he should just make a few remarks more, and then quit the subject. It seemed to him that it had been placed upon a ground by the mover and his friends, so as to involve principles vastly important, but not necessarily connected with it. If the proposition resolving to call for the Cabinet papers had been placed on the ground of expediency and policy, which, in his opinion, was the only ground on which it ought to have been put, there could not have been great difficulty in the judgment of any one in deciding it. He made this remark in hopes that gentlemen who agreed with him in this sentiment would vote upon the motion on its merits, without reference to those Constitutional principles, if they did not suppose them necessarily involved. He could not conceive that it was at all expedient for them to have those Cabinet papers. If they were to be considered upon the ground only of official papers of our own Government, it would be very different in his judgment, but those papers related to the Cabinet concerns and transactions of a foreign nation, whose Cabinet was equally concerned with our own, and, however inclined we might be to expose all our own secret negotiations and Cabinet transactions, he said it could not be proper, contrary to the practice of all other nations, to expose wantonly the Cabinet negotiations and concerns of another nation, which had been confidentially conducted and committed to the custody of our own Cabinet.

If any particular purpose rendered them necessary, it ought to be specifically mentioned in the resolution; and if it was such evidently as required the papers, it would evince the propriety of calling for them, otherwise it would seem not only inexpedient, but impolitic and unjustifiable; and, if they were to be called for on the ground of any co-ordinate right we had to act in making or sanctioning the Treaty, it was, in his judgment, decidedly unconstitutional. From every consideration, therefore, he hoped the resolution would not pass.

He observed, that he had occupied more time of the Committee than he ever expected on this subject; that he had little confidence of having suggested any new light, or persuaded any one from prior sentiment; but the most he expected was, so to have communicated himself on the occasion, as that his own honest sentiments should be well understood; sentiments, he said, which would altogether influence his mind against the resolution, and regulate his judgment in considering the subject of the Treaty.

Mr. MURRAY felt, in the fatigue of which he himself was sensible from attention to the debate, that whoever should attempt to engage the ear of the Committee would have much to apprehend, unless he could promise some novelty of remark. This, however, he would not promise, but he re-

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lied upon the sense of duty which animated every member there for a little indulgence, while he attempted to deliver his opinions against the resolution upon the table. It was a question of great magnitude. Its consequences affected not only the Constitution of his country, but were closely interwoven with its character in the eyes of foreign nations. It affected the Constitution by a new construction of its respective powers. It affected the character of the country in the eyes of foreign nations, by an endeavor to give a power to this House to control, to admit, or to reject, those public and hitherto sacred covenants which bind nation to nation in good faith. The importance of a question involving such considerations would be an apology to any member for engaging the Committee's attention.

The resolution proposed by the gentleman from New York, [Mr. LIVINGSTON] was but the introduction to the question. On the first day's debate, before the subject was committed, he had opposed this resolution. He had not then certainly reflected as much upon the doctrine to which it led as he had since done; but a few simple truths which had long rested in his mind, undisturbed by passion or by new lights, early showed him the necessity of opposing a measure which was predicated on a right of which he had never heard or thought, except since the late discussion of the Treaty, through the newspapers and pamphlets of the day. He insisted that the novelty of the doctrine contended for was of itself sufficient to excite an anxious investigation, considering that we act under a Government and Constitution so extremely definite and precise, both in the quantum and modification of its powers, that any doctrine highly constructive, upon any important part of the Constitution, will forever be a hazardous experiment. He had listened with candid attention to the arguments that had been most ingeniously brought forward to sustain those new doctrines, but still found in the simplicity of those opinions that had kept pace with his acquaintance with the Constitution from its origin, and which had been so congenial with its practice, a basis of conviction which nothing that he had heard had shaken.

The Government of the United States had been in operation more than seven years. Treaties had been formed and acquiesced in. These Treaties had established peace, boundaries, and the rights of persons and of social intercourse; they had been made by the PRESIDENT by and with the advice of the Senate; they had not, that he had heard of, been questioned as supreme laws of the land. This Treaty power is now disputed, on a question which was connected with an event upon which much sensibility had been excited. He did not know how far the minds of gentlemen might not be affected by the merits of the Treaty which had given occasion to the motion; how far the genuine maxims of construction might not have been swallowed up by the sensibility that flowed from a construction of the Treaty power when applied to this particular instance of its exercise. The minds of gentlemen could alone determine that matter, and to them he left it. But it was a little singular,

that the first foreign Treaty made by the Government should shed this new light upon the minds of gentlemen.

He said, that the important question before the House, independent of the immediate object of the resolution, was, whether the printed paper upon the table, purporting to be a Treaty, was a Treaty or not? If it is a Treaty, it is the supreme law of the land; a public covenant, binding the nations who are parties to it, as fully as if every individual of each nation had personally consented to the ratification of it. If it is not a Treaty in the eye of the Constitution, nothing that we can do will make it so. If it be a Treaty in the eye of the Law of Nations, nothing that we can refuse to do, can destroy its validity, though we may break it. If it be a Treaty, nothing that we can do can add to its validity, though it may to its practical operation.

The question is not as to the mode of breaking Treaties, but of making them; not an estimate of circumstances that are to free us from all duty to fulfil an engagement, but whether the moral and public obligation of Treaties when made is to bind us; upon the adoption or rejection of a principle, which, if adopted, is to weaken the bands of nations by a denial of the Law of Nations in converting the more power of breaking them asunder, into a right to do so in the face of the highest compact known to independent nations; this our country could never have designated to us under a Constitution breathing good faith, justice, and true freedom.

He would, he said, state some of the opinions that had been the most ably argued in support of the resolution. There were several propositions laid down: It had been said that a Treaty which contained stipulations upon any of the reserved powers granted by the 8th article of the Constitution to Congress, was unconstitutional: Another is, that a Treaty comprehending any of these specified objects as reserved to Congress, as mere Legislative objects, was not the law of the land till consented to by this House; and that no Treaty which required the agency of this House was a law of the land, if this House refused its agency, and that the House has a Constitutional right to refuse it. He said that he would state his own opinions in opposition to those, and then endeavor to show that these were fallacious, and destructive of the ends which the Constitution must be presumed to have contemplated.

From the letter and spirit of the Constitution, made up, as it certainly was, of national and State capacities; from a plain, unlettered, and self-consistent construction, going hand in hand with an undisputed course of practice for seven years, it had always appeared to him that the PRESIDENT, by the advice of two thirds of the Senate, had power to make Treaties. It was, he would contend, from a plain and unsophisticated construction of the Constitution, that this opinion was drawn. The doctrine now contended for, is to uphold an assumed power that can at best only defeat, but never can be rendered instrumental in giving exercise to the Treaty power.

It totally destroys the Treaty power given by

the Constitution; but does not enlarge the Legislative power of Congress: It may do harm, but never good; establish it, and the Constitution is a nullity in that grant of power, which is designated to present an efficient organ of sovereignty, through which the foreign relations of the Union are to be preserved for our use, and recognised by others. It violates the Constitution, because it renders one of its most important grants of power void. It violates the Constitution, because it assumes a right of either sharing in the Treaty power, which, whatever may be meant by the terms "make Treaties," is exclusively given to the PRESIDENT and Senate. It violates the Constitution, in the assumption of a capacity in this branch of the Government, to give validity to what it prejudices to be unconstitutional. If the propositions which he had mentioned as maintained by gentlemen, be correct, there either is no Treaty-making power in the Government, or this House, to fulfil and give efficacy, in some way or other, to this power, must be obliged to violate the Constitution; one of the consequences appeared to his mind to be necessary. When he said this construction could do harm, and act by obstruction, but never do good, he would here remark, what he would afterwards a little enlarge on, that there were instances in which the House might rightfully obstruct; but these would be found to be, not where there was a Treaty binding by the Law of Nations, but where fraud or other cause justified and often enjoined upon a nation to obstruct. In those cases he would remark, the right to obstruct, or to refuse to act, resulted either from a Treaty that had ceased to be obligatory, as in case of infraction by the opposite party, or an instrument not at all obligatory, as a fraudulent one.

If the doctrine contended for, that a Treaty operating upon the reserved powers of Congress, is unconstitutional, be correct, it will be found that the Treaty power of the PRESIDENT and Senate is reduced to a degree of insignificance below the dignity of the Constitution, were it, instead of being what it is, the most exalted monument of good faith, justice, and liberty, the most vile and inefficient compact that was ever framed—strip the Treaty power of a right to negotiate upon commerce, upon contraband as falling under the commercial view, of free bottoms, as belonging to commercial affairs, of the rights of hospitality to ships, of offences against the Law of Nations, of Consular rights, as affecting a certain degree of the judicial power, of privateers and their conduct, of the fitting out of armed ships during the neutrality of a foreign power, when the United States are at war, and upon what can the Treaty power operate? These reserved powers, in fact, occupy almost every object that it would be Constitutional for the PRESIDENT to treat upon; they embrace the whole of the commercial regulations with foreign Powers; they reserve all the right of defining and of punishing offences against the Law of Nations. Could it be ascertained that the PRESIDENT and Senate were not at liberty to enter into the boundary of these objects of legislation, the whole of their Treaty power would be

reduced to a simple acceptance of peace, a cessation of arms, without the power of availing themselves of any of the advantages of victory in war, derivable from the reserved objects of Congress, such as the rights of a more enlarged and beneficial commerce; or an acknowledgment by stipulation of the rights of nations, though these would probably, nine times out of ten, form the subject of the war. For if the PRESIDENT and Senate cannot make a Treaty upon these points, and they are among the objects of legislation, they could not enter into a negotiation at all upon them. If they could negotiate upon them, it must be in virtue of their power under the Constitution, and the same expressions that would justify them in negotiating, would warrant them in concluding a negotiation by a ratification of a Treaty upon them; because, under the Constitution, there cannot be found any middle ground upon which the other branch of Government could come into co-operation in the making of a Treaty. Its sole agency is under the cogeny of a Constitutional duty, which is to display itself in complying with the contracts of this sort, not in making them.

It is, on all sides, admitted that the Treaty power is competent to make peace. But here, under the doctrine contended for, the fruits of war, in an advantageous peace, are to be rendered doubtful, if not totally lost. The cause of war of might be upon some of the reserved powers, as upon a commercial question, or upon an offence against the Law of Nations. The PRESIDENT and Senate could make peace, but could come to no binding stipulation upon the very objects of the war. At most, they could but negotiate upon them, but could not make a Treaty upon them that would be unconstitutional; but could they even negotiate upon them? They could make a Treaty upon them, or they could not negotiate upon them.

By the Constitution, they are to make Treaties. No where in that explicit and luminous body of our Government is there to be found an expression that gives a right to Congress to negotiate or to make Treaties. This power is classed with the Executive power expressly, and must exclude the Legislature. There cannot be shown in the instrument a power in this House to aid or to consent to negotiation; he meant to distinguish clearly between a negotiation and a Treaty made; the one is the agency merely, the last the thing completed in the view and meaning of the Law of Nations. Now, either the PRESIDENT and Senate may make a Treaty, or they cannot negotiate upon these reserved points, because if it be admitted that these points would be essential in such a situation of our affairs, and that this House could not either negotiate or make a Treaty upon them, either the Treaty power under the Constitution must be adequate to the making of a Treaty upon them, or no Treaty could be made. The Constitution could never intend to preclude Treaties upon commercial subjects; it has shown that it protected those already made, and our own practice has proved, that they are superior to our own laws. Besides, had the Constitution devolved the

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national capacity upon the General Government, by excluding from States a right to enter into Treaties or negotiations with foreign Powers, the right to make Treaties would, of necessity, be in the General Government, this collective capacity of a nation must always reside somewhere; it must exist, because every nation is a moral person standing in certain well-defined relations to other nations. There must exist somewhere a power, an organ to preserve these relations, to fulfil the duties, and discharge the obligations which flow from the Law of Nations. Can it be conceived, that the Constitution designed to destroy, or to render impotent, the organ by which the national character was to be presented to the nations of the world, or can a construction that nullifies the clear and forcible expressions of the instrument be a sound one? The Constitution not only recognises this collective and essential capacity of the American nation, but organizes it for action in a way that scarcely admits of even ingenious misconstructions; it has placed it in the Executive, who, by and with the advice of two-thirds of the Senate, can make Treaties.

If, as has been contended, a Treaty touching the reserved powers, as they have been assumed to be, be unconstitutional, it must be shown either that the nation can avail itself of the Legislative power in carrying into effect its national relations, its wants, its rights, and a redress of its wrongs, in those reserved objects and rights, or that the nation relinquishes them, as they afford the means of intercourse, or the medium of redress; or, that the Treaty power, agreeably to the second proposition contended for by gentlemen, was to be considered as the mere instrument of negotiation, but not of a capacity to bind the nation upon these points. This must be made out by the gentlemen, or they must yield to our construction. The second proposition which was held up to view to be exposed for its extreme fallacy, is, that a Treaty comprehending the objects within the pale of the reserved powers, was not the law of the land, agreeably to the terms of the Constitution, unless consented to or sanctioned by this House. This proposition shall be examined after a remark upon what precedes it.

Can the nation avail itself under the rigor of this construction which is imposed upon the Constitution, so as to render the Legislative power a means of obtaining the full exercise of the reserved objects considered in their relation to foreign nations? Or does it, if it cannot accomplish these great ends by Legislative means, intend to abandon them when they present objects of advantage, or disengage itself from the duties that arise under that class of them which relate to the Law of Nations?

The last is impossible to be the case, as it would be impossible to accomplish the end were it intended. The first is impracticable either in point of fact, or under the Constitution, as a doctrine that can for one moment be maintained.

These reserved powers, so perpetually recurring to, constitute the basis upon which the question asked must be considered. It is contended by gen-

tlemen that the Treaty containing stipulations upon them must be contrary to the Constitution, and erected upon powers usurped from this body; because, by the eighth section of the Constitution, the Congress have power, among other objects, purely of a domestic nature, the following, which relate to the present question: To lay imposts, to regulate commerce, to constitute tribunals inferior in their jurisdiction, to define and punish piracies and felonies committed on the high seas, and offences against the Law of Nations—which, Mr. M. said, he would repeat, and to punish offences against the Law of Nations; because it must open to any man capable of pursuing a regular track of reflection a variety of points in contact with the remarks which he had lately presented to the Committee. These powers, he remarked, were relative to two classes of objects and persons. The first class comprehended all persons and things within the jurisdiction and dominion of the nation. The other, such as were out of the dominion but within the jurisdiction of the nation. They likewise presented to view things which were incomplete in their nature, unless considered as connected with foreign relations; of the first class were imposts, commerce with foreign nations, inferior tribunals of justice, offences against the Law of Nations committed in the United States; of the second class were offences committed against the Law of Nations by American citizens on the high seas, or out of the limits of the United States; piracies committed by our citizens. Upon all these points it was certain that Congress could legislate. It might pass laws relative to the imposts which foreigners are to pay upon goods which they may bring into the United States; but Congress could not produce reciprocity under a stipulation pledging the faith of a foreign nation that the citizens of the United States should not pay more than the subjects of that nation paid in our ports. Congress might pass a law giving a French Consular Chancery a limited jurisdiction, but never by its agency could secure to the seamen of America a similar protection in France. It might define and punish offences against the Law of Nations, piracies, contraband trade, the outfitting of armed ships during a neutrality. It might, by a generous legislation, extend the blessings of a more refined age to foreigners, by withholding the operation of its impost and tonnage laws where storms or distress drove unfortunate foreigners into our ports; it might restrain the privateers of the United States; it might declare that when the United States are at war, neutral bottoms shall afford a sanctuary from rapine to the goods of an enemy; it might declare the debt of an enemy should not be confiscated during a war. All this Congress could doubtless do, and would have honor in the doing, but this accumulation of kindness would not secure to the citizens or to the nation a reciprocity of good upon all these points. It might permit a free trade to all nations, but it could not secure that right which is an imperfect right to our enterprise by converting it through the medium of a compact into a perfect one. Thus, he observed,

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giving the fullest enjoyment to the reserved powers, let them operate in their fullest extent, you stop short of all the objects of the Treaty power operating upon the same objects. You thus construe the powers under the Constitution so as strictly to restrain the general grant to the PRESIDENT and Senate by the reserved powers agreeably to the idea of a gentleman from Virginia, and you fall short of any one object that the Constitution could have had in view in the general grant of the Treaty power. Mr. M. argued that no construction of the Constitution which defeated and rendered either null or unnatural in its enjoyment any grants of power in the Constitution, could possibly be the true one. Here was a construction that narrowed down the Treaty power to a mere cessation of hostilities—not into a capacity of promoting our own rights and advantages with validity; not of preserving the common relations of nation to nation; of converting by Treaty imperfect into perfect right; of upholding the spirit of commercial enterprise by a high obligation of reciprocity; of restraining the avarice or the injustice of nations by pacific and social relations and engagements; not of blunting the calamities of war when we are engaged in it. No. All this according to this construction that is to paralyze our power of self-preservation while it empowers and invigorates our benevolence towards others. All this Congress can do in favor of foreigners, but the Government has no organ of intercourse by which the like good can be secured to ourselves from others. Strange and unnatural construction by which the relative powers of a people may be organized for the good of others, but are disorganized when their own permanent good is to be obtained! This construction, which leads to consequences of perfect impotence, that robs the Executive and Treaty powers, but enriches not the Legislative power, cannot be a sound or a rational construction. Yet this must follow the construction, that the reserved powers operate as restraining the general grant of the Treaty power in the PRESIDENT and Senate.

This must be the consequence, unless it can be shown by gentlemen how and in what manner the Treaty power may be enabled to perform its offices, such as the nation may be supposed to have intended; that is, how it may be a valid and not a void grant of power. They must show how it might attain the ends, how preserve the relations and duties which the Law of Nations imposes on us as a nation, or prove that the ends may be accomplished constitutionally, through the intervention and active agency of Congress acting upon their reserved powers, which are specifically granted as Legislative powers, and which he had attempted to show could not be organized by Congress so as to attain the same end that the Treaty power is perfectly adapted to, if it can be admitted into the agency. He said he had attempted to prove from this course of reasoning that Congress were incompetent, acting legislatively, to obtain the objects he had mentioned, to wit: the reserved powers thrown into action relatively to foreign nations, and considered as affording a

ground of reciprocal benefits solidly secured. He had attempted to show the necessity of some organ to answer this purpose. If he had succeeded in these two points, the consideration of the other proposition of the friends of the resolution would support his reasoning with a force that he thought not easily overcome.

Either the paper upon the table is a Treaty, and as such is obligatory upon us as being part only of the nation, because it binds the nation; or it cannot be a Treaty. It cannot be a neutral inchoate act; it is either binding, because it is a Treaty in the eye of the Law of Nations, or it is nothing. If it is not binding, it is because it is not a Treaty; if it be unconstitutional, it cannot be a Treaty; if it be fraudulent, it is no Treaty; but if it has been made and ratified without fraud, by an authority competent to make it, then it is a Treaty, and, as such, the supreme law of the land, agreeably to the strong and plain language of the Constitution.

Having endeavored to prove the necessity of the existence of a power somewhere in the Constitution, nay, bound in some instances to make Treaties upon many of the objects which are pre-judgingly termed powers exclusively reserved to Congress, and that Congress is incompetent to this great, this imprescriptible right and power, Mr. M. said, he would attempt to show that the Treaty was made by the only power under the Constitution competent to make Treaties. According to the Law of Nations, five things are necessary to the validity of a public Treaty, or an express covenant between two nations: that the parties had power to consent, that they do consent, that they consent freely, that the consent be mutual, that the execution be possible. It would be an unnecessary trespass on the indulgence of the Committee to consider any of the requisites but the first; if the first can be made out by a fair construction of the Constitution, it is all that is necessary to overset the general doctrine contended for by the supporters of the resolution, to wit: that a Treaty is not the supreme law unless this House consent to it, or because it may include the commercial powers. If this can be fairly inferred, it will follow that the instant the covenant is *ratified* it is obligatory upon the nations contracting; from that moment it is a subject taken out of the reach of municipal regulations, and is within the jurisdiction of the Law of Nations, and receives from that law a validity to which Legislative acts can add nothing; it is then among the statutes of nations, and its force and operation as a contract must be adjudged by the maxims of that law alone.

The power of the PRESIDENT, as the organ of the nation's sovereignty, must be considered, when we attempt to ascertain his power to consent. If he had not power to consent, nothing can make this a Treaty; we cannot give him this power. His power must be derived from such a construction of the Constitution as would attain the objects which he had attempted to prove to be inherent in every nation, and must be somewhere in the Constitution. If the Constitution gives him

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the power to make Treaties, and he has made this agreeably to the mode pointed out as essential to his power of consenting, by the Senate's advice, and upon a subject-matter which does not violate the Constitution or the necessary Law of Nations, then it would follow that as a Treaty, in the eye of the Law of Nations, it would bind this nation, and being a Treaty in the meaning of the Constitution, it must be a supreme law of the land. If it is not a Treaty in the view of the Constitution, nothing that we can do can make it Constitutional.

Mr. M. said that he would, in order to support this reasoning, produce an inference, if not amounting to absolute conviction in the minds of gentlemen, at least conclusive against their doctrine, by going into an examination of the second proposition, which he mentioned soon after he rose as one upon which they relied. It was, that a Treaty which negotiated at all upon any of the specified and reserved powers of Congress was not a law of the land unless it be consented to by this House.

He remarked, that if it be proved that they failed in making out any hypothesis by which the Treaty-making power could constitutionally be brought to act, so as to fulfil the objects of the Constitution, their construction, which took the power from the PRESIDENT and Senate, without giving it operation through any other channel, could not be the just one. This opinion or proposition must have been intended by those who have used it for one of two conclusions: either that the PRESIDENT might ratify a Commercial Treaty only upon a condition that this House would, as a branch of Congress, having exclusive power over commercial regulations, consent to such Treaty, and pass laws conformably to it; or that any such Treaty, being already, in their opinion, unconstitutional, might receive validity by the consent of this House. If neither of these conclusions could be warranted by the Constitution, the gentlemen would fail in the only plan of reasoning which he had yet heard from them, in which they had approached in the smallest degree to the point of conciliating the Treaty power with their opinions of the exclusive right of Congress upon the reserved powers. If they could not maintain these conclusions, they must abandon the Treaty power as lodged at all in the Constitution, except in the case they all agreed in, its competency to treat of peace.

Here, Mr. M. said, it was proper to remark, that a Treaty, when ratified, is, by the Law of Nations, a solemn compact. It is admitted that Congress cannot make Treaties. It must be admitted there is a power somewhere in the Constitution that is to justify the making of Treaties; and the point to which the reasoning of gentlemen leads them is, that the PRESIDENT and Senate may make Treaties on the subjects of commerce and other specified objects, but that this Treaty would be the law of the land, unless this House consent and pass laws upon the subject. Let us see where this construction of the Constitutional powers will lead us. The PRESIDENT ratifies a Treaty, with the advice and con-

sent of the Senate, touching the objects granted to the Legislative branches; but that he may not be entangled by the force which the Law of Nations attaches to a ratification of the instrument, he ratifies *sub modo*, under a proviso annexed, that the compact shall be obligatory if Congress shall pass laws to give it effect, or shall consent to it. He sends in the instrument to this House for their approbation, consent, or co-operation—call it what you will—how would this House, in such a predicament, act? what have they a right to do? The first question would be, is this a Treaty? No, it is not a Treaty unless you consent to it; it depends for its existence on you; it has no obligation without your intervention. Were it a Treaty it would be obligatory; but it is not a Treaty, nor binding, till you consent. Could this House do anything agreeably to their Constitutional powers in the making of Treaties? No; that authority, which by its agency is to give validity to a Treaty, is concerned in the *making* of it. Yet here is a case in which the instrument is to receive its validity as a Treaty, its quality by which only it can be a Treaty in the view of the Law of Nations, its force of obligation, from your act. If you give that assent, by which the proviso is accomplished, it is then to be a Treaty. In doing that, upon the execution of which the validity of the Treaty was dependent, do you not, in fact, by a subterfuge from the Constitution, take to yourselves an active agency in the making of Treaties? This, then, which is in strict pursuance of the reasoning of gentlemen as a consequence of the admission that a Treaty touching the reserved powers is not a law of the land, without the consent of this House, will follow that the House may aid in the *making* Treaties. The condition upon which the validity that makes it a Treaty, and, as such, law, depends, is a void condition, because giving an agency in the making of Treaties would be contrary to the Constitution. But we must pursue this mode, or have no Treaties; for the PRESIDENT and Senate cannot make such Treaties laws of the land, Congress cannot make them, nor do anything in the making of them. Where, then, is this Treaty power, so essential to every nation? Yet there is one more construction to console a nation under so ambiguous a Constitution.

A Treaty embracing commercial objects, stipulations relative to offences against the Law of Nations, agreements relative to cases during war, sequestration, free bottoms, contraband, rights of war, all acknowledged objects within the Legislative sphere, is, by the construction contended for by the supporters of the resolution, considered as unconstitutional. The Treaty power, he had attempted to show, must be deemed competent to act upon these objects conclusively, or not at all, as there is no middle ground upon which the Legislative power could co-operate in the *making* of a Treaty, by which it could produce an act inchoate, till sanctioned by Congress. Now, the Treaty-power must reach those objects, or they cannot be obtained at all. Yet it is contended, that though such a Treaty cannot constitutional-

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ly be made binding, that it is in the power of Congress to make it so by its agency. This reasoning amounts to this: that Congress may legitimate what is not legitimate; that Congress may make by its connivance, or its express assent, that to be Constitutional which was before unconstitutional. This is the only consolation left by the construction relied upon: If the Treaty be Constitutional, it is a law of the land; Congress, or this House, acknowledged in many cases to be necessary as the agent of its execution, may violate such a compact by refusing to comply with its obligations, or by doing what shall violate its stipulations. But he contended that no construction of the Constitution which is designed to gratify its powers can be a sound one, which is at war with the supremacy of the Constitution, as a great rule of conduct to us. If a Treaty be unconstitutional, no act of this House can make it Constitutional. Such a construction of the Constitutional powers can never be sustained against a moment's reflection; it must be abandoned, and with it the very last refuge which sophistry had taken in the wiles of interpretation, to give an operation to the capacity to make Treaties upon the Legislative objects, so as to render it dependent upon the will of this House.

Mr. M. said, he had attempted to show that the Treaty power, not being in Congress, must be somewhere in the Constitution. That the Legislative power upon commerce, and other specified objects, could not be construed into an exclusion of the Executive operating through Treaties made by the consent of the Senate upon the same objects. That none of the propositions which he had combatted afforded any mode by which the Treaty power could take hold of the Legislative objects provisionally; and that if the Legislative grant were construed as an exclusion against the Treaty power, there could not be a Treaty made by the President and Senate, except a mere armistice, or at best a Treaty of Peace; and that, too, without the power of attaining the immediate and just objects of war, which are often upon the commercial points: And he had endeavored to show that, according to his first position, if the paper upon the table, which the Proclamation calls a Treaty, be not now a Treaty in the eye of the Constitution, nothing we can do will make it a Treaty.

The power to enter into Treaties is in the President and Senate, or no where. That the President has the power, to be exercised by the advice of the Senate, is to be shown to all who can read the Constitution. That this power must embrace commercial and all objects and things upon which we have a right, or might as a nation be bound to treat, appeared to be a plain consequence, both from the force of the terms giving the power, and from the impossibility of admitting a construction, that robbed the Treaty power of all right over the specified objects, but provided no mode of attaining the advantages and rights related to those objects, through any other channel. The power of the President to consent, then, to a ratification, appeared clearly to his mind to be

full and complete. If he has the power to consent or to ratify, the Treaty is placed beyond the reach of municipal control. It is among the Laws of Nations of the Conventional class. We may violate and destroy its operation, but we cannot invalidate its solemn obligations. There appeared to him to be an error springing from the true idea, that Congress has an agency in carrying Treaties into effect. This is a mere agency, limited to the rights which are left free to choice, and not bound by Treaty. Those rights can be but as to the most convenient mode of executing what the nation has promised to perform. Those who have a duty to discharge, may have a choice over the means by which the duty is to be fulfilled; but, from a power of discharging a duty, no conclusion can be drawn that the party has a right not to discharge the obligation. It is impossible to suppose that a whole nation can rightfully bind itself by a compact to do or not to do a thing, and yet there can exist in the same nation a power that can rightfully obstruct the execution of the agreement. If, then, the nation is bound, we are bound, as the agents for the nation, and we are no more, having no powers but those which the Constitution, which is the nation acting by principles, has trusted us with. If the Treaty binds the nation, it does the whole of it. Its supremacy as a law must be tried by that idea. If it is a Treaty, it is the law of the land. Its relation is to the whole. If it is a law of the land, it is constitutionally placed over every other law in its way. The idea of the gentleman from Georgia, [Mr. BALDWIN,] that its supremacy relates merely to State laws, is a most extraordinary and unmeasured position. If it is a supreme law, relatively to the State laws, from whence does it derive its binding force? It is because it is a Treaty. Can a Treaty, he would ask, be binding over State laws, and yet be inferior to the laws of Congress? If it does this, it is in virtue of its obligation as a Treaty. If it be a Treaty at all, it must have the full force of a Treaty in all its action. If the Treaty, supposing it to be made consistently with the Constitution, binds the nation, it is because it is the will of the nation, expressed by an organ competent to speak it. If the nation bind itself, it must have done so in good faith, and not with any mental reservation. Now, if a Treaty be a full and explicit promise, and yet the laws of the nation relative to its own concerns may rightfully obstruct it, in the denial of its supremacy over internal laws, then the nation violates its good faith, by making a promise with what amounts to a reservation not expressed nor known to the other party. If it be a supreme law of the land, in the plain but appropriate language of the Constitution, and be acknowledged to be superior to the laws of the States repugnant to it, it must be so in virtue of its obligation as a compact binding the whole nation, including, of course, all the communities and authorities within the nation. To suppose that a part of a Treaty can bind, and that a part is not binding, is contrary to every interpretation of the Law of Nations; and no construction can be found that violates the Law of Nations.

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If it be a Treaty, Mr. M. observed, under the Law of Nations, nothing that we refuse to do can destroy its validity. He had attempted to show, that it was such a Treaty, because made by an authority competent to do it. We may violate it, we may destroy the good faith of our nation, but not the immutable principles upon which the Law of Nations attaches to a solemn covenant the highest sanctity. The dispute was not whether this House will execute the Treaty, but whether the House possesses the right to place itself in a situation in which it would be free to elect whether they would or would not execute a Treaty when made. The only thing that this House can constitutionally do, if it has no power in the making of Treaties, or in giving them validity, and he had attempted to prove they had not this power, is to execute them. But the duty or obligation to execute a contract implies no right over that contract. A great deal had been said upon the duties which devolve upon this House when such a compact exists. As this was a part of the subject upon which much had been very ably urged by those with whom he had the honor of thinking on the question, he would very briefly state his opinions and reasons. He agreed with those who supported opposite opinions, that there might be instances in which there would not only be a discretion of appropriating or not, or of executing or not, but also a duty to oppose, to resist the act. These instances, however, in his opinion, would only be either in the extreme case, wherein necessity overcame all other law; or where the act was not a Treaty, because contrary to the Constitution, or the necessary Law of Nations. In all other cases, the only doctrine which, in his mind, did not carry with it a deadly poison to both the Constitution, and the character of the nation for honor and good faith, was, that we were bound to execute the Treaty, and had no more choice as to the execution of the compact, than an individual has, after he enters into a fair agreement, whether he will execute it or not. We are not the nation. We are their trustees, holding their ways and means to be applied to the discharge of all their *bona fide* debts and contracts. We can only examine whether the contract is made. If we doubt whether there were fraud at the bottom, we then may inquire, and in that state of things might avail ourselves of the papers, if a well-grounded suspicion were alleged. But when we know that the compact is in force, and he had attempted to show that it was in force, we have no election but in the means of carrying it into execution. What can be the moral theory of that man who admits that a sound contract can exist, and yet that the parties to it are free to choose whether they will consider it as obligatory? It is both a contradiction and a subterfuge, to maintain which, in the eyes of the world, would bring upon the nation which shall act upon such a principle, the imputation of perfidy and bad faith. Not that he believed it to be the intention of the House to refuse to execute the Treaty; but the principle assumed went the length of placing the House on a ground upon

which it might, if it chose, rightfully do wrong. But the difficulty which we have to encounter is not merely to prove, that under the construction which gentlemen have given to the Treaty power, as separated from the objects upon which Congress have a right to legislate, no Treaty advantageous to us, can be made; but also to encounter another doctrine, that sets at defiance all the Laws of Nations and the Constitution; for by its consequences, it denies the obligation of the first, and in the reasons which support it, does violence to the Constitution of the United States; it is, that after a Treaty is acknowledged to exist in full force, this House has a right to appropriate or not, if the provisions of the Treaty should demand an appropriation. All our duties flow from the Constitution and the law of nature. If a Treaty exists, it binds the nation; of course, all the authorities in the nation. From the obligation of the Treaty arises duties which the nation must perform. If it be a debt which the nation has acknowledged to be due, it is our duty to discharge it, because we hold the money of the people in our hands for the purpose of discharging their debts. We hold nothing so much our own as to entitle us to think for ourselves in such a case. If the people make a Treaty, or any promise, through any other organ of their will, we cannot rightfully obstruct it; we cannot withhold our agency to carry it into effect, if it bind our constituents.

The contrary doctrine, the doctrine of free will, of discretion as opposed to the necessity of doing what duty demands, is taken from the analogies which have been resorted to through a kind of desperation, drawn from the practice of the British House of Commons.

From these supposed analogies, Mr. M. contended, most of the errors in the construction of the relative powers of this House flowed. Once establish these analogies, and he agreed the House acted conformably to principle. But these analogies are not warranted by our Constitution, nor forced upon us from the nature of the case. They have been hastily taken up to serve the purpose of this particular occasion. It would be a little tiresome, but not superfluous, to take a glance of the two Governments. The Constitution of the United States, and the British Government. In the first, we find certain definite portions of power accurately meted out by the people in a written instrument to the respective branches of Government. We find the people explicitly recognised as capable of distributing their powers as best suited their opinion of their duties, and interests as a nation. We find certain State capacities with certain portions of reserved sovereignty in the system. We find a Republican form to be administered upon written principles and maxims, not susceptible of being administered upon any other principles than those which are prescribed. We find the whole of the Government, but the organs of the will of the nation. A man would naturally conclude, that when powers were so very definitely measured, that one great object was, as much as possible, to exclude analogy as

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the ground of assuming what was not expressly delegated and modified agreeably to the written paper; and that the same wisdom in the nation that digested such a system, would demand of its public functionaries an exercise of the respective grants of power conformably strictly to the various portions deposited in their hands.

Look, on the contrary, at the British Government. He would agree that we had inherited and borrowed from that Constitution and their laws, a thousand profound maxims and principles that led to the improvements which we now enjoy.

But he insisted that we had improved upon them in the assignment of duties and grants of power; in the explicitness of those grants, by which contest among the branches was to be avoided. In looking at the British Constitution, he could see nothing of fixed right in their form of Government, but the Monarchy. He saw in the King, rather than the people, the great reservoir from whence the power and privileges of the Lords and Commons, of justice and of honor, flowed in streams narrowed or enlarged at pleasure, and according to the action and reaction of the Commons and the Peccage upon the King. In him he saw the Sovereign. In America, he saw in the collective capacity of the nation the sovereign, and Government, its established mode of action. The Commons in England grant supplies to the King. Here we grant supplies to fulfil the views and obligations of the people. Here an appropriation is less a grant of money than an act of duty, to which the Constitution, that is, the will of the nation, obliges us. There, supplies and grievances have been for centuries a measure of compromise, and the mode by which the Commons have accumulated powers and checks against a throne. There, we see the powers of the Commons growing by absorption from the prerogative of the Crown. Here, we see in the powers of this House, not the spoils of contest, not the trophies of repeated victory over the other branches of the Government, but a specific quantum of trust placed in our hands, to be exercised for the people agreeably to the Constitution. We ascend for our derivation of authority and strength to the fountain of all political power; they gain theirs by cutting away that royal reservoir that has been sucking in for ages by dark and now unexplorable channels, the authorities and powers of the nation. The Commons are called by the King, and may not be called by him more than once in three years. Their very existence depends upon their instrumentality in furnishing supplies to the King. The Lords are of his creation. The Commons, if refractory, can be dissolved, and an appeal thus be made to the nation. The Senate here is created by the people, and elected for only six years. Here the PRESIDENT cannot dissolve Congress, even if they chose to adopt a right of stopping the wheels of Government. He said, that had not these analogies been upheld by respectable authority; had they been supported by men unfriendly to our Constitution, he should have suspected that the resemblance was attempted for the purpose of rendering our

own Government less valuable in the eyes of our fellow-citizens; and if the gentleman from Pennsylvania [Mr. GALLATIN] who has shown such powers upon this question, had been hostile to the Government, he scarcely could imagine a mode that he could have chosen, better adapted to make the Government unpopular than this supposed analogy; for the whole of each of the Governments must be taken into view when you attempt to derive powers from the presumed analogy of any of its branches. He denied that there was any such analogy between the powers and privileges of the Commons of Great Britain and the powers and duties of the House of Representatives, that you could for a moment maintain a right of refusing to appropriate money to make good a national compact because the Commons exercised that right. There is a system in which jealousy must hold the balance between branches, some of which have at best but a precarious existence, and another branch, which is the only great substantive figure in their form of Government. In fact, the two Constitutions differ essentially. The branches here are elected for short periods by the people. The PRESIDENT is one organ constituted and elected by the people. The Senate are constituted and elected by the people. This House is elected by the people; not to struggle with each other, but to give action to the Constitution; and no right can be assumed by any one branch that gives a power of making the Constitution inactive or inefficient to its great ends. To overturn this Constitution is not merely to oppose it by violence. To refuse to act, to withhold an active discharge of the duties it enjoins upon the different branches, would as effectually prostrate it as open violence could do.

To say, therefore, that the discretion of this House is complete, because the House of Commons, in order to preserve their very existence, makes a compromising discretion the means of gaining their points, is to infer from our right to appropriate, and our duty to do so, a right to refuse those ways and means which must be voted, or the Constitution is a dead and inactive body.

Other gentlemen, with whom he agreed in opinion, had rendered it unnecessary for him to say any thing upon the opinions that were entertained at the adoption of the Constitution, upon the question now before the Committee. He believed that, from one end of America to the other, it was taken for granted that this House had nothing to do in the making of Treaties, and that this power was exclusively in the Senate and PRESIDENT. The gentleman just up, from New York, [Mr. GILBERT,] and the gentleman from Rhode Island, [Mr. BOURNE,] had placed the interests of the small States, in this construction, in so forcible and correct a point of view, that he would not say a word upon that very interesting part of the subject. But, of the contemporaneous opinions, that were supported in the Convention which framed the Constitution, he would make a remark or two. He confessed himself extremely surprised that the gentleman from Virginia, who was in that Convention, [Mr. MADISON,]

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and the gentleman from Georgia [Mr. BALDWIN] had not favored the Committee with the view which either they or others had taken of this important point in the Convention. Surely, Mr. M. said, the world would have excused a departure from common caution upon a subject so extremely interesting, one in which a great question was argued upon the Constitutional powers of each branch. Some great facts must be known to these gentlemen, which, if mentioned, would throw light upon the point. Some recollection of motions made upon this very point, pursued, argued, and decided, from which we could learn what was exclusively granted to the President and Senate, by what the House of Representatives were refused a participation in. The gentleman from Virginia had borne an exalted rank among those who framed the very instrument. To his genius and patriotism, in a great degree, he had always understood, were we indebted for the Constitution. Would it not be expected that he who had helped to speak through the Constitution would be well prepared to expound it by contemporaneous opinions? Would it not be desirable that, if there are doubts, if we wander in the dark, the gentleman should afford us light, as he has it in abundance? If the Convention spoke mysterious phrases, and the gentleman helped to utter them, will not the gentleman aid the expounding of the mystery? If the gentleman was the Pythia in the temple, ought he not to explain the ambiguous language of the oracle? To no man's exposition would he listen with more deference. If any cause could justify the intrusion of curiosity upon a deposit of secrets in a very sanctuary itself, it would be this doubt, and he should almost feel at liberty to open the Journals of the Convention, to see at least what they meant who spoke a language to others ambiguous, but to himself plain, incontrovertibly plain.

In the construction of other Constitutions, some formed by mere charters of privileges, others rising from practice, we find the historian and the commentator obliged, in the support of theory, to resort to records unintelligible, from a change of names and of manners, or to the uncertain lights of mere tradition. But, in construing our Constitution, in ascertaining the metes and bounds of its various grants of power, nothing at the present day is left for expediency or sophistry to new-model or to mistake. The explicitness of the instrument itself, the contemporaneous opinions still fresh from the revery of its adoption; the Journals of that Convention which formed it still existing, though not public, all tend to put this question in particular beyond the reach of mistake. Many who are now present were in the Convention, and, on this question, he learned that a vote was actually taken. We have all seen the Constitution from its cradle, we know it from its infancy and have the most perfect knowledge of it, and more light than ever a body of men in any country have ever had of ascertaining any other Constitution. If, however, a refining spirit can at this day, so full of light shining upon every part of it, excite and establish doubts upon some

of its plainest passages, what is the prospect of that posterity which is to be deprived of those lights which its very framers now find incompetent to lend them? One hundred years hence, should a great question arise upon the construction, what would not be the value of that man's intelligence, who, allowed to possess integrity and a profound and unimpaired mind, should appear in the awful moments of doubt, and, being known to have been in the illustrious body that framed the instrument, should clear up difficulties by his contemporaneous knowledge? Such a man would have twice proved a blessing to his country.

Mr. M. said, that he had attempted to show, with power he was conscious extremely inferior to the subject, that the paper upon the table issued by the President's Proclamation as a Treaty, was a Treaty in the eye of the Constitution, and the Law of Nations. That, as a Treaty, it is the supreme law of the land, agreeably to the Constitution. That, if it is a Treaty, nothing that we can rightfully do, or refuse to do, will add to or diminish its validity under the Constitution and the Law of Nations. That, if it be not a Treaty, nothing that we can do will make it one. That, if this be not a Treaty, because it stipulates upon some of the reserved Legislative powers, the Treaty power in our Constitution is a nullity, a void grant; and that the nation, by the construction of gentlemen, is stripped of all the means of entering into Treaties with foreign nations, except a Treaty of Peace, of a perfectly inefficient character. That, as there is a necessity of having a Treaty power competent to all the objects in this Treaty somewhere in the Government, it must be in the President and Senate; and he had attempted to prove the mode in which gentlemen contended the Treaty power might operate through this House is either incompetent or unconstitutional.

He concluded some observations upon this point by remarking that, if the Treaty power contended for by gentlemen be the true one, then, indeed, is the nation fallen from that explicitness of principles and of national character that will debase her in the world's eye; for we can only have the power of deceiving by an explicit Constitution, which affords to foreign nations the most plain and intelligible grants of power, but which admits a domestic construction which renders void the whole grant—a subterfuge from fair promises to evade performance when inconvenient. This cannot be the will of this virtuous country.

He said, in viewing this subject, sufficient attention he thought had not been paid by those who supported the resolution to the binding force of the Law of Nations; and attempts had been made by a few gentlemen to give a popular air to their arguments. For himself, he trusted to the wisdom and virtue rather than to the passions of the people of America. He did not believe that they who separated the powers of the Government so accurately, would feel gratified in a measure by which that separation of power is mingled by the assumption of this one branch.

He did not believe that enlightened freemen

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would feel any addition to their liberties because the House of Representatives might absorb powers which they had delegated to the other branches. They knew that the *PRESIDENT* was as legitimate a branch of their original powers as this House are, and that in the Senate they saw but another branch from their original grant of power. The people knew the value of national reputation for good faith; they know the sanctity of the Law of Nations. They would not themselves violate it; nor could they be pleased by the adoption of a principle in this House, even though the British House of Commons may assert such a principle, that sets national faith at hazard; that produced a solecism in the eye of the Law of Nations—a Treaty ratified and fully accomplished, not obligatory, if those who are bound by it do not choose to execute it. That Law of Nations they would insist on to be inviolate as the great charter, not of one nation only, but of the human race. That law, which, were despotism to cover the face of human society like a sweeping deluge, if preserved in some sacred sanctuary, would, when made known again, be the rallying point from which genius, and patriotism, and justice, might restore to man his rights and happiness, however obscured by time and accident. Considering, then, as he did the resolution as predicated upon a right in this House, which he deemed a violation of the Constitution, as a measure pregnant with evil when he compared it with that law, he should find an excuse in the candor of gentlemen for having so long trespassed upon their patience. He would no longer detain them than to thank them for their indulgent attention.

MARCH 24.—In Committee of the Whole, on Mr. LIVINGSTON's resolution.

MR. BUCK said, when he first rose in opposition to this resolution it was from a consideration, that as the idea of an impeachment was discarded, these papers would apply to no other object worthy the attention of the Legislature of a nation, unless to enable them to judge of the expediency and merits of the Treaty. As he had ever understood the jurisdiction of that House not to extend to that object, it was solely on that ground he founded his opposition; therefore, through the whole of his observations, he took that for granted which he soon after found denied, and which he presumed still remained in the minds of many to be proved. But here he would solemnly declare, that though he was a member of the Convention at the time the State of Vermont adopted the Federal Constitution, though he was acquainted in all parts of that State, and had had frequent opportunities to converse with those who were opposed to the Treaty, both in that and the neighboring States, yet he had no recollection of ever having heard the idea suggested, that the House, in their Legislative capacity, had a right to judge and determine upon the expediency of a Treaty, until he came upon that floor. But when this doctrine was avowed in that House, and the gentlemen from Pennsylvania and Virginia came forward to prove and support

it, he was borne away with the torrent of their superior abilities, and lost in the wide maze of wonder and astonishment. Their reasoning was so forcible and impressive, that, at first blush, their arguments appeared unanswerable and conclusive. He was struck with astonishment to think that America, with all her boasted wisdom, had never understood the genuine and true meaning of her Constitution until that moment. He was astonished to think that he himself had been so totally mistaken in a matter which had ever appeared to him so extremely clear. This astonishment, however, stimulated to inquiry. He had paid the closest attention to all those arguments. He had endeavored to examine and weigh them with impartiality, and to investigate the subject with candor. If he had come to a wrong result, he hoped he should again be set right before the debates closed.

Though the arguments had been very diffuse, and had embraced many objects, yet, he said, the whole debate turned on one single question, and that is, whether this House possess a right of check upon the Treaty-making right, or in the language we hold, whether the Legislative power of this House extends to the right of checking the Treaty-making power in any case when that power has been exercised within its Constitutional bounds. To prove this right, the British Constitution had been resorted to as analogous to their own. A partial comparison had been made, arguments drawn from thence, and the practice under it, to establish the point. It was painful to draw comparisons when a description of the thing by which they compared was so far from exciting sensations of pleasure as to create disgust; but, since he was drawn on to this ground, he hoped the importance of the question, and the necessity of the case would be received as his apology; and that he should be allowed to draw such further comparisons as he should deem necessary in order to determine how far these arguments ought to weigh in this decision. He should therefore proceed first to state, and then to prove, what he conceived to be the principles and Constitution of the Government of Great Britain.

The first principle of their Government is, that every man, when he enters into society, surrenders or gives up a portion of his natural liberty as a consideration for the glorious privilege of being governed; and, as to their Constitution, the great mass or body of the people have none at all; no will, no right, no freedom, but what they hold on sufferance, and dependent on the will of their imperious masters. He wished it to be understood here that he made a distinction between the great mass or body of the people on the one hand, and the King, with three estates of the realm, the Lords spiritual and temporal, and the Commons, on the other. The latter consisting, perhaps, of one fifty thousandth part of the nation have a Constitution, and that Constitution is their will; but the will of the great body and mass of the people constitutes no part of it, other than an imperfect choice in their masters. They are, therefore, as has been justly observed by a gentleman from New York, in chains, and he would add ignominy

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ous slavery and bondage. To prove this statement, he would now recur to the same authority adduced by the gentleman from Pennsylvania, who was first up in support of the doctrine now advocated, viz: *Blackstone's Commentaries*, 1st volume, page 125 —

"Every man, when he enters into society, gives up a part of his natural liberty as the price of so valuable a purchase, and in consideration of receiving the advantage of mutual commerce, obliges himself to conform to those laws which the community has thought proper to establish."

This is laid down as the first principle of their Government, and he would now proceed to that part of their Constitution which relates to their King, who is said to be analogous to their President. In the same volume, page 190, it is said:

"The supreme Executive power of this Kingdom is vested by our laws in a single person, the King or Queen; for it matters not to which sex the Crown descends, but the person entitled to it, whether male or female, is immediately vested with all the ensigns, rights, and prerogatives of Sovereign power."

Then, in enumerating his Councils, he says:

"The Parliament is his Council, all the Peers of the realm are by birth his hereditary Counsellors, and that the Judges of the Courts are his Counsellors."

In page 229, he says:

"But the principal Council belonging to the King is his Privy Council. The King's will is the sole constituent of a Privy Counsellor, and this also regulates their number."

And in this chapter upon the King's prerogative, he ascribes to him the attributes of absolute sovereignty, absolute perfection, and absolute immortality; and in detailing more particularly his prerogatives, he says:

"The King has the sole power of sending and receiving Ambassadors, of making Treaties, of making war and peace, of granting letters of marque and reprisal, and of granting safe conduct. He is a constituent part of the supreme Legislative power and has an absolute negative upon all laws which may be passed. He is Commander-in-Chief of all the forces of the Kingdom. He is considered as the fountain of justice, the fountain of honor, arbiter of commerce, and, lastly, the head and supreme Governor of the National Church."

In short, there is no attribute belonging to Deity which *Blackstone* does not ascribe to the King; and no right or power whatever which God Almighty can possess, but by the British Constitution is given to the King; nay, though he may possess the heart of a vulture, the rage of a lion, and the venom of an asp, he is nevertheless born their King, and their Constitutional God. In the exercise of those powers, he creates all the nobility and Peers of the realm, whose offices are hereditary, and by virtue of which they and their posterity hold seats in Parliament. He also creates his own Privy Counsellors and Prime Minister, who also have seats in Parliament; and, as supreme head of the Church, by his license alone, can an Archbishop or Bishop be elected or consecrated; and they likewise, when so elected, hold

seats in Parliament. And to all this might be added, a patrimonial revenue belonging to the Crown, called the King's Ordinary Revenue, which had been infinitely superior, and now he believed not inferior, to the whole revenue of the American nation, and which furnishes a private purse, the strings of which are held by the King's Prime Minister in Parliament, and is of more sovereign sway than all the revenue of the nation beside. But here we will leave the King for the present, with all his analogy to our President, while he took a view of that part of their Constitution which relates to the Parliament, and which it is contended is so analogous to the American Legislature.

Blackstone, in his chapter on the Parliament, page 146, in speaking of the relations by which men are connected together, says, that "the most universal public relations by which men are connected together, is that of Government, namely, as Governors and governed, or Magistrates and people." He then goes on to show that as the Governors or Magistrates must necessarily possess absolute and unlimited power the excellency of the British Constitution consists in their having divided that supreme and absolute power, and placed it in separate and distinct branches, "the one Legislative, to wit: the Parliament, consisting of King, Lords, and Commons, the other Executive, consisting of the King alone;" and in page 153, he says:

"The constituent parts of a Parliament are the King's majesty, sitting there in his royal political capacity, and the three estates of the realm, the Lords spiritual and Lords temporal, who sit together with the King in one house, and the Commons, who sit by themselves, in another. And the King and these three estates together, from the great corporation or body politic of the Kingdom, of which the King is said to be *caput, principium, et finis*: for, upon their coming together, the King meets them either in person or by representation, without which there can be no beginning of a Parliament, and he also has alone the power of dissolving them."

And then to show the reasonableness of their Constitution, and the necessity of this division of power, he says:

"It is highly necessary for preserving the balance of the Constitution, that the Executive power should be a branch, though not the whole of the Legislative: The total union of them, we have seen, would be productive of tyranny. The total disjunction of them, for the present, would in the end produce the same effects, by causing that union against which it seems to provide. The Legislature would soon become tyrannical, by making continual encroachments, and gradually assuming to itself the rights of the Executive power. Thus the long Parliament of Charles the first, while it acted in a Constitutional manner with the royal concurrence, redressed many heavy grievances, and established many salutary laws, but when the two houses assumed the power of legislation, in exclusion of the royal authority, they soon after assumed likewise the reins of the administration, and in consequence of their united powers, overturned both Church and State, and established a worse oppression than any they pretended to remedy."

Thus, in page 160, speaking of the powers of Parliament, he says:

"It hath sovereign and uncontrollable authority in the making, confirming, enlarging, restraining, abrogating, repealing, reviving, and expounding of laws, concerning matters of all possible denomination, ecclesiastical or temporal, civil, military, maritime, or criminal. This being the place where that absolute despotic power, which must in all Governments reside somewhere, is intrusted, by the Constitution of these Kingdoms, all mischiefs and grievances, operations, and remedies, that transcend the ordinary course of the laws, are within the reach of this extraordinary tribunal, it can regulate or new-model the succession to the Crown, as was done in the reign of Henry the eighth, and William the third; it can alter the established religion of the land, as done in a variety of instances in the reigns of King Henry the eighth and his three children; it can change and create afresh the Constitution of the Kingdom and of Parliaments themselves, as was done by the act of union and the several statutes for triennial and septennial elections; it can, in short, do every thing that is not naturally impossible, and therefore some have not scrupled to call its power by a figure rather too bold—the omnipotence of Parliament. True it is, that what the Parliament doth, no authority upon earth can undo."

From this authority he thought the statement fully proved that the great mass and body of the people of Great Britain had no Constitution, no will, no political liberty or freedom, but what they had on sufferance and solely dependent on the will of their masters; for it was found that that absolute, undefined, uncontrollable, and despotic power, which *Blackstone* says is necessary in all Governments to be lodged somewhere, is in fact lodged in, or rather assumed by the King as the Executive of the nation, and that the same absolute, undefined, uncontrollable and despotic power, is also assumed by the Parliament as the Legislature of the nation. The great body of the people, have, therefore, two absolute masters, whose powers extend, as they had seen, to the direction of all possible objects whatsoever, both civil and sacred, whose will is the very essence of the Constitution itself, which must necessarily be changed as that will shall change or vary.

It had been said, that the British Constitution was made up of immemorial usages and customs; it is true that it is known by usage and custom, but what are those usages and customs? They are neither more nor less than those things which the King and Parliament have been pleased to do, in order to balance those two supreme powers in such manner as they, in their own discretion, have thought it proper, in order to guard and protect the existence of both, that one should never totally destroy the other, and share the whole boon of power to itself alone. But *Blackstone* says, that those usages and customs can be altered and new ones introduced; but by whom? By the will of the great body of the sovereign people? No; they have no sovereignty, no will, nothing to do in this great business; but all this must and may be done by the sovereign will and pleasure of the King, who is considered as a God, and the three estates of the realm, the Lords spiritual, the Lords tem-

poral, and the Commons, who are considered omnipotent; they can change the succession to the Crown, they can change the established religion of the land, they can change the Constitution of the Kingdom, and of Parliament itself, says *Blackstone*, and can do every thing that is not naturally impossible.

He thought then they might rightly adopt the sentiments of the English Bishop, quoted by the gentleman from Pennsylvania, as applicable to the British Government, and he would here answer that gentleman, that the English Bishop which he quoted, spoke not only the language of a British King, of a British House of Lords, but the genuine language of a commoner of England also; for it is the true doctrine of the British Government, in all its branches and departments, from the King on the Throne even down to the corporal in the army, and from the Parliament down to the justice in the country, that the people have nothing to do but to obey; passive obedience and non-resistance is their political creed. And if that gentleman meant by his inquiry to know whether that House was worse off than a British House of Commons, because they do not possess the same omnipotent power; because they could not alter the election of their Parliament as analogous to the succession of the Crown; because they could not alter the religion of the land, or the Constitution of their country; or, because they are public servants, and not despotic masters of the people, then his answer was, that he humbly conceived that they were worse off, and his prayer to God was, that they might forever remain so; or, if the gentleman meant, by his inquiry, to know if the people of America were worse off than the people of Great Britain, because they are sovereigns and not slaves, because they have public servants and not masters, then his answer was the same, and his prayer the same. But, that gentleman, whose abilities he admired, and whose worth he esteemed, would never have quoted the sentiments of an English Bishop as a sarcasm upon his observations had he known the sentiments of his heart, or understood the ideas he meant to communicate; nor would any of those who have followed that gentleman's example have treated him with the severity they had done had they not totally mistaken his meaning.

He would therefore proceed to a consideration of the principles and Constitution of their own Government, hoping that he should be better understood.

Blackstone, with all his historical, political, and legal knowledge, had no idea of a Government that ever had or could exist like that of the United States. He says, that it is not to be supposed that there ever was a time when men, from the impulse of their reason, and a sense of their wants and weakness, met together, entered into a compact, and chose their Governor; and it seems universally to have been the case, in regard to all Governments heretofore found in the world, that they have been established by conquest, or founded in usurpation, without any original compact or general agreement of the people, prescribing and

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defining the rules by which they would be governed. But it is to be remembered, that *Blackstone* wrote before America was born into the political world; that with her birth commenced a new era, and that the principles and Constitution of the American Government are dissimilar from all others that now are, or ever have been in existence.

The first principle of the American Government, said he, is, that nothing is surrendered, but all retained by the people; that the sovereign despotic power which *Blackstone* says, is vested in the King and Parliament by the British Constitution, is with us not vested anywhere, but is inherent in the people; and it is agreed by every one, that the Constitution of the United States is the expression of the sovereign will of the people reduced to writing, and now before us. If the will of the people is then the sovereign despotic authority, that will is the authority of the United States, and if the Constitution is the expression of that sovereign will, the several constituted authorities stand as the subordinate officers or agents of the people, to execute their will, and derive all their authority from the Constitution.

How then, said he, does the principle of our Government compare with that of Great Britain? How does our Constitution compare with their Constitution? How does our PRESIDENT compare with their King? Their King stands as the Constitutional god, and passive obedience and non-resistance are due from the people to his sovereign will; but our PRESIDENT stands as a subordinate officer or agent of the people; and passive obedience and non-resistance are due from him to the will of the sovereign people. How does the Senate compare with the House of Lords, who are hereditary, and, acting with the King, are a constituent part of that absolute despotic power, which *Blackstone* mentions as resting in Parliament, when our Senators are subordinate officers chosen by the people, accountable to them, and placed as agents to execute the despotic and absolute will of the people? And how does this House compare with the House of Commons, when the Commons are another constituent part of that absolute despotic power? How does our Legislature compare with a British Parliament, when the will of that Parliament is the only Constitution of that Kingdom, and which has competent power, and can change the succession to the Crown, the religion of the land, the Constitution itself; and, in short, can do everything, and no one can say, why do you do so? When, on the other hand, our Legislature derives all its existence, and all the powers it can possess from the Constitution, which is the will of the people.

How was it possible, that things should be called analogous which were so totally different in every part and particle of them? To what purpose, then, are all those arguments drawn from the Constitution of Great Britain? To what purpose all those numerous volumes of parliamentary debates, journals, and reports, to prove the practice and prerogatives of that despotic Court? What have they to do with a Constitution, which

is the express will of the great body of the people of America, prescribing rules for her own self-government? Have we so soon forgot the domination of that Government, under whose oppression we so lately groaned, and became so enamored with its excellence as to lose sight of the principles and Constitution of our own Government, and to assimilate ours to that of Great Britain? Compare our PRESIDENT to their King! Our Senate to their House of Lords! And we ourselves assume the prerogative of their House of Commons!

This, he was sure, could not be obeying the will of the great body of the people of America. No, let us leave this pursuit, return to our own Constitution, take that as our guide, and considering it a supreme law to us, and the only source from whence we derive all our authority, let us consider the PRESIDENT, the Senate, and ourselves, as the agents of the people, to execute their will, expressed in the Constitution, and without destroying its features, abrogating any of its parts by strained construction, let us take that plain meaning, which was, and now is, put upon it by those who made it.

But before he proceeded to a construction of that instrument, which he deemed a supreme law in its nature, he would promise, that it was an universal and fixed rule in all Courts and judicial bodies, in construing all laws and all instruments whatever, never to do away an express and positive clause, or sentence, by implication from another clause or sentence, which is not express and positive to the same subject. This is a rule so plain and so well established, and so reasonable in itself, he thought the man who would deny it, must have lost his senses, and be without hope, for he presumed there was not one of his constituents, even in the lowest grade, who ever sat upon an arbitration to decide a dispute between two of his contending neighbors, but that would say, it was absurd to contradict this position, and that it was a rule as well known as that men were to judge by the faculty of their reason.

Then, said he, does not the Constitution, which is a law to us, declare, in as positive a manner as words can express it, that the PRESIDENT "shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur, and that he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers, and consuls?"

Was it not clear that the people, when forming this Constitution, contemplated themselves as standing in relation to foreign nations, in the same situation as one individual stands in relation to another; and, therefore, that it was necessary for them to make provision for holding negotiations, making compacts and Treaties, which should, when made, be mutually binding on both nations, as contracts made between individuals are binding on each individual? Is not the power of making those national contracts expressly given to the PRESIDENT and Senate? Is there a word in the Constitution which says, that any other

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man, or set of men, shall have any voice in this business? Not a syllable of the kind. In what light, then, must the **PRESIDENT** and Senate consider themselves, when they were making the present Treaty; must they not necessarily consider themselves as the sole agents for the nation, for this purpose, and must not the nation with whom they were contracting, consider them in the same light? How, then, were they to conduct themselves in this business? Why, every one, he thought, must say that they were to do the same, as they, in their discretion, should suppose the nation for whom they were contracting, would do for itself, were they all collected together, furnished with the same information, possessed of the same view of the subject, as the agents themselves were at the same time; supposing the nation to be exercising their dispassionate reason, and making the contract for themselves. The agents, then, must do that, which, from a full view of the subject, and all existing circumstances, they judged best for the nation.

Is there a man on this floor who will come forward and say that the **PRESIDENT** and Senate have not done this? That they have not done what they judged was best for the nation, under all existing circumstances, and what they judged the nation would do themselves, possessing the same view of the subject? He believed no one would assert this.

Then, at what time was this contract to receive its binding force? If the agents in making of it have kept within the limits of their agency, is it not binding on the principals the moment it is concluded by the agents? If he were to appoint an agent to contract for him, and give him his power of attorney for that purpose, and pursuant to that power he makes a contract, would it not be binding on him the moment it was completed by that agent? He believed no one would deny this. Was not, then, the Constitution a sufficient letter of attorney to the **PRESIDENT** and Senate to make Treaties?

But it is said that Treaties made under the authority of the United States shall be the supreme law of the land, and that for them to be made under the authority of the United States, they must have the sanction of that House, being a constituent part of that authority.

If he comprehended the meaning of those gentlemen who preached this doctrine, they had the same idea of the authority of the United States, as *Blackstone* had of that of Great Britain, that is, as he had already proved, that that absolute despotic power, which, he says, is necessary in all Governments to be lodged somewhere, is lodged in the **PRESIDENT**, Senate, and House of Representatives. But he had already stated, that that absolute despotic power which *Blackstone* speaks of, is inherent in the people. Will those gentlemen deny this statement? If they will, he was willing they should go where they could enjoy despotic power; but he was not willing that the **PRESIDENT**, Senate, and House of Representatives, should be changed into King, Lords, and Commons, to gratify their feelings. He pre-

sumed, however, that this position would not be denied, but that it would be agreed that the will of the people was the only absolute despotic power in our Government; that the Constitution was the expression of that will, and he thought it must then necessarily follow, that the Treaty made by the sole agents mentioned in the Constitution, must be a Treaty made under all the authority of the United States that exists for that purpose, and therefore that the present Treaty received all its binding force it ever can have (if it be Constitutional) upon the two nations, from the moment of its ratification, and that it is now a law conformable to the express declaration of the Constitution; and that not only the Judges of the several Courts, but every other officer of Government, and they themselves were to regard it as such; nothing that they can do will give any additional force or create any new obligation.

But it is said, that by another clause in the Constitution "No money shall be drawn from the Treasury but in consequence of appropriations made by law; that Treaties may stipulate for the payment of money, and this House, must, therefore necessarily become judges when they are called upon to appropriate for that purpose. Let us contrast this clause of the Constitution with the one which says the **PRESIDENT** and Senate shall make Treaties. Was there a word in this clause about appropriations mentioned about Treaties? No, not a word. Shall we then, by implication and construction, drawn from a clause not positive to the same subject, fix a meaning which shall do away a positive and direct clause to that subject? This is a complete violation of the rule of construction laid down, and perverting the order of reason.

But gentlemen do not pretend to carry their ideas quite so far as this, and they say they do not contend for the power of making Treaties, but for a co-operative power in carrying them into effect, or a negative power to check them when so bad as that they ought not to be carried into effect. In his mind it amounted to neither more nor less than this, that they claim a right, not to make Treaties, but to break them, when they are not agreeable to their taste.

On this ground, it is asked with an astonishing air of assurance, can Treaties repeal laws, or laws repeal Treaties; and if they can do neither, how is it possible they should both exist at the same time, and operate upon the same objects, while they are opposed to each other? This is a knotty point; but he would attempt to answer it. He had no idea of a Treaty repealing a law, or a law repealing a Treaty, accurately speaking, but he had a very clear idea, that a Treaty, in its nature abrogates and does away all pre-existing laws of both nations making it, which stand in opposition to the Treaty; and that opposing laws executed after a Treaty made, may break and violate the Treaty, and commit the plighted faith of the nation pledged in the most solemn manner.

To simplify the idea. As an independent moral agent, his will was the sovereign power by which he was to regulate all his moral actions.

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In the exercise of this power, he had a right to prescribe such rules for the regulation of his own actions as he pleased; his neighbor has the same right, but neither of them have a right to prescribe rules to control the actions of the other. The rules, then, which they prescribe are laws regulating their actions, and applying to themselves independently of each other. If it is found by their daily intercourse, that the rules and regulations, thus prescribed, interfere or clash with each other, this lays foundation for compromise or treaty between them. Suppose, then, they meet, and enter into mutual agreement, so to regulate their conduct by mutual concessions, as not to interfere with each other, does not this agreement, in the very nature of it, abrogate and do away those regulations which he had antecedently prescribed to himself, and which interfered with his neighbor's interest? or if he persist in the doing of those things which he had stipulated he would not do, would it not be a violation and breach of his contract or treaty with his neighbor? And does it not operate the same on his neighbor's part, if he shall persist in the doing of those things which interfered with his interest, and which he agreed he would not do?

Will it be denied that America, as an independent and sovereign nation, stands in the same relation to Great Britain as another sovereign and independent nation, as one individual stands in relation to another? He could conceive of no difference but this, that in Great Britain the King, Lords, and Commons, assume the right of being the great corporation, or body politic of the nation, in whom is lodged absolute and despotic power, and therefore, set up their will as the standard by which to prescribe all the rules for the regulation of themselves and their slaves.

But America stands a complete moral person; as the will of the moral agent is the supreme power which regulates all his moral actions, so is the conjoint and united will of the great mass and body of the people of America, the supreme power which regulates all her political actions. In the exercise of this supreme power, she prescribes by her agents (the Legislature) all those rules by which to regulate her own actions, as an independent and sovereign nation, and those rules are, in the most strict sense, laws by which each individual of the community are bound; but can those rules extend to control the actions of other independent nations, any more than the rules he prescribed for the regulation of his conduct can extend to control the actions of his neighbor.

Then, said he, let us take a view of the actual situation we were in with respect to Great Britain previous to this Treaty. Did not she claim a right to almost every port in the world to which we could carry on commerce? and could America claim any property other than by stipulation, to a single port in the world more than twenty leagues from her own shore? Look into the definitive Treaty of Peace with Great Britain, and he thought every one must grant this. Had not Britain, then, as a nation, an undoubted right to impose such duties upon our vessels as she pleased,

when trading to her ports? It cannot be denied, and she carried the exercise of this right so far as to prohibit our trade and capture our vessels when going to those ports over which she claimed the right of control.

He would now ask, if they, by legislation, could restrain these proceedings of hers? He answered, No. They might legislate to eternity, and war or Treaty must finally decide the dispute. We have chosen the latter, and in it they have stipulated that they will not capture our vessels; that they will impose no higher duties on our vessels in their ports than what they impose on all other nations; and that they will surrender up the Western posts. We, on our part, have stipulated that we will lay no higher duties on their vessels and goods in our ports than we do upon the vessels and goods of all other nations; and that we will pay the debts due to certain of their subjects, where, by the interposition of our Government, they have been and now are totally prevented from collecting them. Now, he would ask, whether, if Great Britain should take our vessels, lay higher duties on them than she has stipulated, or should not surrender the posts at the time, without anything further done in regard to the Treaty, if it would not be a breach and violation of it on her part? Is there a man here who would not cry out, faithless nation! If, then, we still execute those laws which now stand in opposition to the Treaty, on our part, or refuse to pass those necessary laws to fulfil the stipulation on our part, does not the charge retort on us?

But, said he, are we sent here to violate the faith of the nation, and without declaring war on our part, or putting ourselves in a state of defence, are we to give a justifiable pretext to Great Britain to sweep our whole commerce at one blow, and plunge the nation into an immediate war, without any preparation whatever? If we are, do we want those papers for that purpose? But he had a different idea of their duty; he took it they were sent there to prescribe such laws and regulations as are necessary for the community, and which do not depend on stipulations with other independent nations.

But, it has been said, shall we make appropriations of money, without acting as free agents? He would answer this by another question. Can we have an agency, unless we assume the power, where the people have not, by the Constitution, appointed us their agents? He would answer, further, that we have the same agency as in appropriating money for the PRESIDENT's salary, with the only difference, that should they withhold appropriations, there the consequence could not be so very important; but if they withhold appropriations, when necessary to fulfil a Treaty, they strike a deadly blow, by violating the faith of the nation, plunging them into all the horrors of war, and the blood of thousands might be chargeable upon them.

Much had been said, by a gentleman from Virginia, about the supreme, unlimited and undefined powers of the PRESIDENT, and the co-operative and co-ordinate powers of that House. In an-

swer to those ingenious observations, he had to say, that that gentleman left our own Constitution, and theorized extremely well upon the Constitution of Great Britain. But he confessed he had no just ideas of two separate and distinct supreme powers in our Government; but if they were to adopt the principles of the British Constitution, to be consistent, they must balance the powers as they have done; make the office of our PRESIDENT hereditary, give him a creative power to make nobles, privy counsellors, archbishops, and bishops, and a prime-minister; and let them constitute one-half of the Legislature, and add to that power a patrimonial revenue, and let him have a private purse for his prime minister to use in this House, and then he may stand some chance to maintain his power. But if this is a contest about power, suppose they pass this resolution; call for the papers, and if the PRESIDENT should refuse to deliver them, and say it was an infringement upon his prerogative, an encroachment upon his supreme power, which was sacred, then would I say he talked as much like a haughty British King, as they all along had been talking like an omnipotent British Parliament, and he was not at a loss to know how the contest would end; for it would be only for them to proscribe him as a despot, grasping at all power, blow up the popular resentment, and the same blind zeal and false patriotism which had led to the burning in effigy members of that House, of the Senate, and the Minister who negotiated this Treaty, would lead him to the scaffold, and not all his well-earned glory, nor all his god-like virtues, would save his life twenty-four hours. But if he had a just idea of that great and good man, he would hold a very different language. Little would he say about his supreme powers or absolute prerogatives; but he thought he might justly say, that, by the Constitution, from whence all power was derived, he, with the Senate, were placed as the sole agents of the nation for making Treaties, and he the deposite for those papers. That we were not the agents of the nation to interfere in this business; that we were therefore assuming power not delegated to us; violating the Constitution; and that he could not consistently with the trust reposed in him, resign those papers to our lawless demands.

But it has been said, that if the PRESIDENT and Senate possessed this uncontrollable power to make Treaties, they might bind up the whole Legislative power; they might even annihilate it, and substitute an insignificant Indian tribe as a Legislature for the nation, and that we had not even a shadow of liberty left.

Is it possible that gentlemen who give themselves time to think and explore the ground they go over, should be thus extravagant? Is it not agreed by all, that if a Treaty violates the Constitution, it is void in itself: Does not the Constitution particularly point out how the Legislature shall be formed; what shall be the qualifications of its members, and how they shall be elected? Does it not point out with the same precision, how each other department of Government shall be constituted and organized; and does it

not mark out the powers and limits of each? Does it not guaranty to each State its republican form of Government; and is not the right of altering or creating anew the Constitution reserved to the people? Look to the Constitution, and it will be found that the PRESIDENT, Senate, and this House, cannot, with all their combined powers, interfere with the personal security, personal liberty, or private property of the people, unless in raising taxes, and the mode in which that is to be done is directed by the Constitution. Yet it is said we have not the shadow of liberty left, when the whole combined powers of the Federal Government cannot interfere to say what compensation I shall have for false imprisonment, defaming my character, or trespassing upon my person or property.

From the observations that have been made, he thought himself justifiable in tracing those extravagant ideas, and this extraordinary diversity of opinion to its source.

It was not long since, said Mr. B., they were groaning under the oppressions of Great Britain, and they had to wade through fields of blood to throw off her cruel power. The indignation with which they were then justly fired, though it has been smothered, is not extinct; though they, as individuals, are noble, generous, just, and humane, yet, as a nation, consisting of King, Lords, and Commons, possessed with that absolute despotic power he had described, they are imperious, haughty, and cruel, and, riding triumphant mistress of the seas, they insult all nations of the world. They had lately felt their insults, and in many cases their influence, and even cruelty. This, said he, has raised afresh our indignation. On the other hand, we behold France, our generous ally who has participated in the struggle, and fought by our side in the cause of liberty, now struggling in her turn for the same noble prize. We see Britain wielding the tyrannic sword to strike her dead in the struggle. While our hearts swell with sympathetic emotions for France, our indignation is carried to a degree of madness against Britain; we cry out for the Spirit of Seventy-six; are for plunging into the war to make a common cause with France, to extirpate tyrants from the earth. If our hand is stayed, the picture which we are beholding is so strong, and the impressions so forcible upon the mind, that when we turn our eyes from Britain to America, we behold a King in our PRESIDENT, and a House of Lords in our Senate; we imagine they are in league with despots, and are ready to fall on and wreak our vengeance on them.

These, he imagined, were the formidable rocks of Scylla, on the one hand, and Charybdis on the other, which have endangered our country. And had there been any man at the helm of our political ship who possessed a less share of firm patriotic prudence, or a less share of the unbounded love and confidence of the people than our present Executive, God only knows where we should have landed! Whether we should not, ere now, have been plunged in all the horrors of foreign and domestic war; guillotines going, blood stream-

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ing in all our public places, and our country exhibiting a complete counterpart to the French revolution; with this shocking difference only, that, as they have called forth the whole energy of human nature, and given a loose reign to all the vindictive and turbulent passions, to cut down and destroy real tyrants, despots, traitors, and minions, we, in our blind zeal, might have been executing the same vengeance upon our ideal ones, the mere agents and faithful servants of the people.

But, to conclude, if the will of the people is the only sovereign power in our Government; if the Constitution is the expression of that will; if that Constitution has made the President and Senate the sole agents for making Treaties, then we have nothing to do in calling for papers to judge of their expediency or merits. This resolution must, then, be a violation of the Constitution, and should he give his voice to the passing of it, America, when she shall return to that calm repose that she enjoyed when the Constitution was formed, might execrate his name, and generations, yet to rise, might join in the execration.

Mr. GOODRICH said, that frequent assertions had been made in debate that no Constitutional question was involved in the present resolution. To attempt a refutation of that opinion would be time misspent. Those matters merely colorable or of little importance, which were introduced at the commencement of the discussion, have been lost in the consideration of a fundamental principle of the Government. Every speaker's example, and the uncommon exertion of talents they had witnessed, evince that to be the case. What are the Constitutional powers of the Executive, and what are those of this House, relative to Treaties, are questions which we must have met in the course of business, and probably they could not have been presented in any shape less exceptionable than under this motion. They are sufficiently pointed for our deliberations, and now are placed conspicuously before the public for temperate disquisition and determination. The people are the source of power. One of their first and essential rights is, to make and amend their systems of Government. Ours, formed by the dictates of an enlightened wisdom, and a spirit of conciliation, owes its ratification to the good sense of the people, and their inviolable attachment to the Union. It is our duty conscientiously to expound their written compact, and faithfully to administer the power it confides to us.

In support of the motion, two principles are strenuously maintained: one, that this House has a co-operative power, with the President and Senate, over Treaties embracing Legislative objects; another, that there results to the House a right to decide on the merits of the Treaty, to which the papers refer, from the powers Congress have relative to appropriations of money.

The whole argument in favor of the first proposition itself, is, that this House possesses a controlling power over some Treaties, because they embrace objects upon which Congress may legislate. He admitted that these two powers, so often mentioned, the Treaty and Legislative powers, do

act on some of the same objects. Probably every object embraced by the former would, on being critically analyzed, be found to be a subject of the latter. Legislative authority is the basis of all authority in Government. Both these powers are acknowledged to be essential to the interests of Government, not merely to their perfection, but also to their protection and existence. One acts by the coercion of statutes within the territorial limits of a nation; the other comes to its aid where it is incompetent to act, and by compact regulates the reciprocal concerns and relations of independent sovereignties.

It is incident to every authority in well-organized Governments to possess the whole subject over which it must necessarily operate. What the Legislative authority cannot accomplish distinctly by itself, the Treaty-making power, in all cases proper for its management, must effect. If the Legislature, by the organization of the powers of a Government, is admitted to a participation in arranging its concerns, and making Treaties with foreign nations, it does not act in its appropriate capacity as a Legislature, but assumes the distinct office of a Treaty-power. It is true, indeed, the sole right of pledging the public faith may be assigned to the Legislature; the Legislature then becomes the Treaty power. If it be partially assigned, in that case the Legislature becomes partially the Treaty power. To pursue the subject one step farther; this power may be assigned wholly or partially to one branch of the Legislature. In these cases, from its nature and offices, it would be a Treaty, and not a Legislative power. The last supposed case is the actual case of the Senate under our Constitution. In short, though these powers assume some of the same objects, yet, from their different functions and modes of operation, they are to be considered as distinct. Judicial and executive power act on the same objects as the Legislative; the former declares the will of the Legislature, as applicable to a specific case; the latter executes that will. These instances, though not exactly parallel in all particulars to the case in question, may serve to illustrate the doctrine.

The primary end of Treaties, or the chief motive for making them, are to protect and advance our national interests, and those of our citizens in foreign countries; to guard ourselves against aggressions within our jurisdiction or elsewhere. Other nations are actuated by the same views in respect to us. Hence, effectually to consult and provide for our own interests, the Treaty power must necessarily possess the right of arranging and regulating by compact some of the affairs of internal policy. The progress of civilization and of intercourse between nations, renders their interests reciprocal. They can be permanently advanced and protected only by reciprocity of terms. To secure our own rights, we must secure the rights of others. To obtain privileges we must grant privileges.

The only reason assigned why this House has a co-operative power with the President and Senate over Treaties, being because Treaties of

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the description over which this co-operative power is claimed to operate do affect Legislative objects; an explanation of the distinct offices and functions, together with the incidents that belong to these respective powers, has been deemed to afford a sufficient answer to this reason. That the Legislative power merely by the force of its authority to make statutes in respect to certain objects over which the Treaty power acts by way of compact, does not draw to itself an exclusive power to make Treaties, relative to those objects, nor thereby parcel out or limit the power to make Treaties, or claim a co-operation with it, when vested in a distinct department. No such construction arises fairly out of the nature of these two powers, but they are to be distinguished by the appropriate duties assigned to them respectively, and the different modifications under which they operate. If the construction contended for can be admitted, how are the respective rights of these elementary powers in Government to be determined? Placed in a state of collision at least, if not of hostility, in the body politic, how are we to designate which has the right of spoiling or limiting the other? Where do its inroads begin; how far extend, or what are the fit occasions for its warfare; or, are both to act offensively and defensively like opposing powers? Did not the framers of the Constitution know the nature of these two authorities, their respective and relative offices? If so, must we not suppose they designed them to act separately and independently in their particular spheres, exclusively and conclusively performing their functions? Or, is it more rational to suppose that they instituted these two authorities, and left them to range at random until they could find their true destiny from the custom of some foreign country? To suppose the latter is to reflect on those wise patriots the highest disgrace, to hold up our much admired system to our citizens, and the world, as a system incorporating in itself the principles of incessant warfare between the great departments. It is to mar all its beauty and harmony.

A critical examination of the expressions in the Constitution, and a sacred regard to their plain import, will leave no room for construction or conjecture on this point.

To interpret words was not a grateful task, it afforded no scope for the powers of imagination. But observing how attentively Judges, in construing written instruments and statutes, regarded the expressions, and how little latitude they allowed to their inventive faculties, or their own fancies about policy or expediency, he hoped he should be pardoned for remarking that their example had not been sufficiently imitated in the discussion of this Constitutional question. He would venture even at this late hour of the debate to ask the attention of the Committee to the parts of the Constitution connected with the present subject, and to mark and collect the precise meaning of the terms or phrases used.

They are familiar to the Committee. "He shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two-

thirds of the Senate present concur." Who is to make Treaties? The PRESIDENT. "By and with the advice and consent of the Senate, provided two-thirds of the Senators present concur." No Treaty can be made without the advice and consent of the Senate. There must be a quorum of Senators present to constitute a Senate, and two-thirds of the Senators present must concur in the advice and consent made essential to the ratification of a Treaty. The PRESIDENT is not peremptorily bound to conclude a Treaty, though the advice and consent of the Senate be given thereto. The PRESIDENT's positive act is necessary; and he can withhold it in case his judgment dictates that to be his duty. In what view are the Senate to be considered? As a check on the PRESIDENT to prevent bad Treaties and further good ones; as a controlling, negative, and constraining power, or as a co-operative power. Their power in this respect is analogous to their other powers where they act on Executive business; instance the nomination and appointment of the officers of Government. The next word to be noted is "make." In common use it denotes a full completion of the act to be done; when applied to legal instruments its signification is the same. Such is its signification here, a perfect and conclusive act. It has been often observed, that to expound the Constitution fairly we must compare its parts together. The rule is a good one. To determine the use or sense of words, we resort to clauses of the instrument where the same word is used relative to the same subject. This word twice occurs in the sixth article, where we all agree that the signification is the same as before mentioned—a perfect act. Power to make Treaties; Treaties made, and Treaties that shall be made, all import a conclusive act done or to be done.

Gentlemen who support the motion content themselves with asserting the meaning of the whole sentence without defining precisely the signification of the terms. This has aided them to make out systems not warranted by a just interpretation of the words. Often has it been reiterated in favor of the resolution, that the PRESIDENT and Senate are empowered conclusively to make some Treaties, but are mere organs to form others. How are the Senate organs to form Treaties? Can they originate them, or form stipulations? Are they to act jointly with the PRESIDENT in those respects? They possess no such authority. When a Treaty is formed and placed by the PRESIDENT before the Senate it is inchoate. And what is the effect of the advice and consent of two-thirds of the Senators for its ratification? Is nothing more implied than that the inchoate stipulations on which they have deliberated, shall remain inchoate till a majority of the Senate, in their Legislative capacity, deliberate again on the subject; and, by a majority only, either reject or confirm the inchoate act they had before, by the concurrence of two-thirds, consented should be formed? On the construction assumed by gentlemen in support of the co-operative power of the House, and on which their whole system rests

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two different significations are given up to the word "make" in this clause of the Constitution: One denoting a perfect and conclusive act; another an inchoate act. For the purpose of illustrating this part of the subject, admit that the several specified articles of Legislative jurisdiction are excepted from the Treaty power, or that the Treaty power is thereby limited so that it cannot act on them; how is it reconcilable with the fair interpretation of words, that the term "make" should take to itself different meanings; that it denotes a thing actually complete, and a thing incomplete; that by it a limited and unlimited authority is granted? Is not the power of the PRESIDENT, relative to Treaties, single and uniform, whatever objects it constitutionally embraces, or under whatever limitations it acts? Can it be parcelled out, and over one set of subjects exert a perfect authority, and over others only a limited one? Such construction perverts the meaning of the terms. What are Treaties? Compacts between sovereign nations, relative to peace, war, commerce, and security, originating in their consent, and from thence deriving their binding influence or obligation. The power to make Treaties is nothing more nor less than an authority to pledge the public faith relative to those objects. The sixth article has been often commented on: "This Constitution, and the laws of the United States, which shall be made in pursuance thereof, and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land." "Under the authority of the United States." An authority of the United States empowered to make Treaties is intended. The PRESIDENT, with the advice and consent of the Senate, is the only authority named in the Constitution for that purpose. Two kinds of Treaties are contemplated. Treaties made under the Confederation, and Treaties to be made by the PRESIDENT and Senate. The words authority of the United States are inserted as comprehensive terms, including, without circumscription, both descriptions of Treaties. Law of the land: A rule of conduct for citizens and subjects within our jurisdiction, and for regulating all things therein to which the rule relates. The declarative part of the sentence ends; what follows is by way of caution or express injunction. There is no occasion to dwell longer on it. A clause in the third article, section two, is explicit: "That the judicial powers shall extend to all cases in law or equity arising under this Constitution—the laws of the United States, and Treaties made, or which shall be made, under their authority." A power distinct and separate from the other powers instituted in the Constitution; an authority to pledge the national faith is, in express terms, given to the PRESIDENT, under the control of the Senate. Its existence does not admit of doubt; and the design of its institution was, that it should be exercised on fit occasions. No exception is made, in respect to its objects, nor any limitation expressly provided; no special Treaty-making power is instituted.

Constructive reasoning in support of the co-

operative power of this House cannot be allowed. 1st. Because the express terms of the Constitution decide the question in every stage of the operation of the Treaty power. The PRESIDENT is to do the final act; and when done the Treaty becomes a law, to be placed among the laws, pleadable as such, and the judicial power is expressly extended to all cases, in law or equity, arising under Treaties. He believed that this was peculiar to our Constitution. Treaties in other countries, by binding the public faith, impose an obligation on the body politic to provide laws; with us, so far as they are perfect, and their provisions can execute themselves, they need no auxiliary laws. If imperfect and destitute of necessary provisions, like other laws in themselves imperfect, they require further laws. Under the forms of our Government the Legislative and Executive functions cannot act in unison directly on a Treaty to confirm it. A simple vote of one branch gives no additional force to a Treaty; the PRESIDENT's affirmative and positive act is necessary. A concurrence of two-thirds of the Senators present is requisite. In legislation, the affirmative act of the PRESIDENT is not made essential; a majority of the Senate is sufficient. Laws must originate in one of the Houses of Congress. Auxiliary laws have no direct effect on the Treaty itself. 2d. Because a check, or co-operative power, viz., the concurrence of two-thirds of the Senators present, is expressly provided to restrain the Treaty power in the hands of the PRESIDENT. Is it not fully evident that the framers of the Constitution and the people have considered this subject, and declared their will in respect to a check? And shall we, in contradiction to that declaration, from remote and uncertain construction, multiply checks?

Grant we may amuse ourselves in researches for an extension of our powers by construction and conjecture, he apprehended that they should at last find themselves in a delusive dream.

So far as he understood the arguments in favor of a co-operative power on the part of the House, they presented themselves in these two points of view:

1. That all Legislative objects specified in the eighth section of the first article of the Constitution are excepted out of the Treaty power.

2. That Legislative jurisdiction over certain objects limits the Treaty power so far only as that it cannot conclusively make Treaties relative to those objects, and thereby a controlling power is vested in Congress.

He imagined that the first proposition was not true in point of fact. Many reasons had been offered to show that Legislative objects were not excepted from the Treaty power, merely because they were Legislative objects. He would endeavor to show that they were not excepted merely because they were enumerated. It is true that a special limits a general power, without express words of limitation; but the special must be of the same kind as the general power. Objects embraced by a general power may be withdrawn from it by being expressly vested in a special

power of like kind, though no terms of exception are used. To explain: If the Constitution had contained a special Treaty power, vested in a different organ from the PRESIDENT, to act on Legislative objects, then the general power would have been limited without a restrictive or exceptive cause. All that is left to implication in that case is, to presume that the special is carved out of the general power. The presumption is so obvious as to become irresistible. Implication is not to be extended further, for an obvious reason. The intent to vest a general power is expressly declared by its being expressly vested. No special power can be carved out of it, or a limitation be made on its exercise, except such intent also be expressly declared. An institution of a special power is a declaration of such intent. The evidence of a limitation upon the grant is of the same nature as the evidence by which the grant was made. Legislative power does not possess the essential capacities and attributes of the Treaty power. By the Constitution they are contemplated as distinct authorities. We shall act arbitrarily to commit them.

By recurring to the Constitution we shall find the reason why these several articles are specified. The Legislative body is organized and defined by the first article of the Constitution. The power of legislation is between the General and State Governments—all Legislative power herein granted. By these words the grant is made and the reservation expressed. The Legislative powers of the General Government are defined in the eighth section of the first article. The design of this definition was to ascertain the limits of jurisdiction between the General and State Legislatures. The ninth section of the first article contains certain limitations upon some of the powers vested by the eighth section, and a denial of other powers, which might otherwise be assumed by implication. The tenth section contains a denial of other powers, to prevent disputes which might arise respecting a supposed jurisdiction between the General and State Governments on the subjects therein mentioned. The complexity of the Government has rendered this specific definition of its power necessary. An enumeration of the particular subjects of legislation, in the eighth section of the first article so often adverted to, is to ascertain the limits of jurisdiction between the General and State Legislatures. When the specification has been dictated by so obvious a reason, shall it be overthrown by a mere supposition that the enumeration is made for the purpose of divesting the other branches of the Government of authorities expressly granted to them? On some of these enumerated articles the State Legislatures have concurrent jurisdiction with Congress; and, will it be pretended that they possess, on that account, a co-operative power over Treaties?

To view the question in all its attitudes, let us suppose that the construction so forcibly pressed on the Committee is fully authorized; what is the result? All the objects so often alluded to are entirely withdrawn from the jurisdiction of the

Executive. If we adopt the principle we cannot restrain its full operation. There is no middle ground. Nothing but our arbitrary will can assign certain rights to be left still with the Executive, and certain powers to be exercised by this House. On the construction assumed, all the Treaties made by the PRESIDENT and Senate are unwarrantable assumptions of power. An error has crept into the public councils on this subject. Foreign negotiations have been carried on upon the ground that the PRESIDENT and Senate could conclusively make Treaties. Treaties, without the sanction of this House, have been proclaimed as laws. In this situation the exigency of circumstances press with an almost irresistible weight on the authors of this doctrine, to set some limits to its inroads on the powers of the Executive. If the principle were to be admitted in its whole latitude that love of power and aggrandizement, described to us as so insinuating and invincible, could not be gratified by an alliance with the Treaty power. To determine the authority heretofore assumed by the PRESIDENT to be usurped, and that in future he could not exercise it, would leave no basis for our co-operative power. The middle course also not only addresses itself to our ambition, but professes to avoid the most serious evils; though it mutilates the Constitution, it does not divest it of the Treaty power, as the principle in its utmost extent would do. It admits the constitutionality of the Treaties entered into by the PRESIDENT, so far as to render them proper for our sanction; and thus keeps in prospect the continuance of our national happiness. Temporizing policy may dictate this line of conduct, but a regard to the principle which the favorers of the resolution have adopted, leads to conclusions far different—that the objects of legislation are entirely withdrawn from the Executive, that his acts are void, and that this House can never foster usurped authority in any of the departments of our Government.

He observed that the other point of view in which gentlemen presented the subject, viz: that the Legislative power limited the Treaty power so far only that it could not conclusively act without the co-operation of this House, was inconsistent with the former proposition; it conceded that the enumerated objects of Legislative power were not withdrawn from the jurisdiction of the Executive. He said, that on that principle the whole doctrine of the right now proffered to the House rests. If these subjects of legislation are not exceptions out of the Treaty power, whence can any authority be derived to us? From what source does it originate? The power of the PRESIDENT and Senate is conclusive over all the subjects it can constitutionally act upon. To support our co-operative power we are obliged to rob the Treaty power in part only at this time. We are now on Treaties already made. He would ask gentlemen where the co-operative power was to commence, how far was it to be defined, what were to be its effects? Was there any reason for limiting it merely to a simple confirmation or rejection of a Treaty when made? Why not co-

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operate in negotiation. The reverse to what has been may be the case. This House in future may prefer peaceable negotiation, while the Executive shall meditate a different line of conduct. And, might they not then, with as fair pretensions as on the present occasion, insist also on the right of negotiation? Indeed, why not in all cases? He would close his remarks on this branch of the subject, by observing, that if we substitute constructive reasoning in place of the express letter of the Constitution, the form of our Government, under pretence of providing checks against power, or of enlarging the powers of Government, would undergo perpetual changes. The question that now fixes the attention and hopes of the present age is, whether men can associate under written compacts and govern themselves? Nearly connected with that question undoubtedly is the consideration how far the agents of the people will regard these written compacts.

Mr. G. said, he had so far trespassed on the patience of the Committee, that he would only ask their attention for a moment to a few remarks in respect to the right that was supposed to result to the House of determining on the merits of the Treaty in question, from their power over appropriations of money.

Here the mind had been busy in devising extreme cases, which, from their extremity, formed their own rule and provided the remedy. He observed, that most of those cases which had been brought forward were such as to destroy the instruments of Treaties. In instances of their being obtained by bribery, fraud, or imposition, they had no obligation. Bribery, fraud, and imposition, entirely vitiate compacts. Under this class also are to be placed those Treaties which grossly sacrifice all the essential rights and interests of a nation. None of these circumstances can be candidly alleged against the British Treaty.

The question is, if a Treaty, fairly and constitutionally made, stipulates the payment of money, what obligation does it impose on this House? It imposes a perfect obligation resulting from two sources. One imposed by the Author of Being—a moral obligation; the other arising from our Constitution, which is formed by a moral and enlightened community to enforce moral obligation. If the nation, from the exigency of circumstances, is incapable of discharging its obligations, they become suspended. That is not pretended; and, if it were, the only document requisite for deliberation would be a statement of revenue and expenditure from the Treasury Department.

Gentlemen who favor the resolution say that those in opposition to it have assumed high ground, and invite us to unite with them. We conscientiously believe that we stand on Constitutional ground; and gentlemen will permit us, in return, to solicit them to resist the love of power, which they represent to be so enticing and predominant, to afford the example of a numerous public body repressing the proffer of an extension of their own powers. On these grounds we shall obtain the noblest of conquests—the conquest of ourselves.

Mr. GALLATIN would not have requested once more the attention of the Committee, had not the floor been altogether occupied for the four last days, by gentlemen opposed to the resolution, who had taken much new ground, and must have raised many doubts. At this period of the debate it might not be useless to try to state with precision the question, and the points on which opinions were divided, and to compare the arguments offered on both sides.

The original question (the call for papers) had now resolved itself into another, which alone had become the subject of discussion, to wit: whether a Treaty made by the President and Senate was, although it embraced objects specifically delegated to Congress by the Constitution, a compact completely binding on the nation and Congress, so as to repeal any law which stood in its way, so as to oblige Congress (without leaving them any discretion except that of breaking a binding compact) to pass any law the enacting of which was necessary to fulfil a condition of the Treaty, so as forever afterwards to restrain the Legislative discretion of Congress upon the subjects regulated by the Treaty; or, in other words, whether, when the President and Senate had, by Treaty, agreed with another nation that a certain act should be done on our part, the doing of which was vested in and depended solely on the will of Congress, Congress lost the freedom of their will, the discretion of acting or refusing to act, and were bound to do the act thus agreed on by the Treaty?

An assertion, repeatedly made by the opposers of the motion that their doctrine rested on the letter of the Constitution, whilst that of those who contended for the powers of the House was grounded only on construction and implication, had not the least foundation. The clauses which vest certain specific Legislative powers in Congress are positive, and, indeed, far better defined than that which gives the power of making Treaties to the President and Senate; nor does the clause which declares laws and Treaties the supreme law of the land, decide in favor of either, and say which shall be paramount. And yet some gentlemen had argued as if they meant to attend exclusively to one part of the Constitution, without noticing the other; the consequence was, that many of their arguments applied with equal force in support of the opposite doctrine. Thus, when they said that there was no part of the Constitution which declared that the Legislature had power to make a Treaty; that, had it been intended to except Legislative objects out of the general Treaty-making power, an express proviso for that purpose should have been added to the clause which gives the power of making Treaties; and that Congress, when making laws, were bound to obey the will of the people, as expressed by their agents the President and Senate; it might, with equal strength of argument, be replied, that there was no part of the Constitution which declared that the President and Senate had power to make laws: that if it had been intended to except out of and to limit the Legislative powers of Congress

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by the Treaty making power, an express proviso for that purpose should have been added to the clause which gives the Legislative powers; and that the PRESIDENT and Senate, when making Treaties, were bound to obey the will of the people, as expressed by their agents, Congress.

In order to decide which doctrine was most conformable to the Constitution, it was necessary to attend to and compare both parts of the instrument, and to adopt that construction which would give full effect to all the clauses and destroy none. But, before he entered in that examination, he found himself obliged to follow the gentlemen who had spoken before him through a train of arguments, drawn not from the letter or spirit of the Constitution, either directly or by implication, but from a variety of extraneous sources. The Law of Nations, the practice under the Articles of Confederation, the opinions of individuals and of Conventions, had been conjured up as uniting in ascribing to the power of making Treaties the most unlimited and unbounded effect.

It was, in the first place, insisted that the Treaty-making power, *by its nature*, necessarily involved all those incident powers which might be necessary to give it effect; that, as it did embrace all those objects which may become subjects of compact between nations, so it must imply a power conclusively to regulate all such objects, of whatever nature they might be; and that, by the Law of Nations, the words *to make Treaties* were generally understood to have that broad meaning. The very reverse, however, of those assertions would prove to be the fact. For, firstly, in all limited Governments, where the powers of making Treaties and laws were lodged in different hands, the first never had, *by its nature*, swallowed up and absorbed the Legislative; but it would be found universally that the manner in which that power was exercised in such Governments, when the conditions of the compact with the foreign nation were of a Legislative nature, was, not by superseding, but only by calling to its aid and assistance the Legislature, without whose consent the Executive was not enabled to fulfil the conditions of the compact; and, secondly, this doctrine was perfectly well understood, as he stated it, by all nations, and therefore constituted a part of the Law of Nations. For it was agreed by all the writers on the subject (and he quoted *Vattel*, book i. chap. 21.) that even where the Legislative and Treaty-making powers were united in the same hands, it did not follow that the conductor of the nation had a power to dismember or alienate the territory of the nation, unless he had received from them not only the power of making Treaties, not only general Legislative powers, but also either the express power of alienating, or, what is called by those writers, the *full sovereignty power*, or, in other words, an absolute, complete, unlimited, and despotic authority over the nation. But it was further stated by the same writers, justified by general experience, and recognised as a principle of the Law of Nations, that in all limited Governments, the powers vested in the other branches of Government, and specially in the Le-

gislative body, operated as limitations to the general power of making Treaties, lodged in the Executive. In support of that assertion he quoted *Vattel*, book ii. chap. 14, and also the following passage from the same author, from book iv., chap. 2:

"The same power, &c., has naturally that likewise of making and concluding the Treaty of Peace. But this power does not necessarily include that of offering or accepting any conditions with a view of peace; though the State has intrusted to its conductor the general care of determining war and peace, yet the fundamental laws may have limited his power in many things. Accordingly Francis 1st, King of France, had an absolute disposal of war and peace; yet in the Assembly at Cognac, he declared that, to alienate, by a Treaty of Peace, any part of the Kingdom, was out of his power. When a limited power is authorized to make peace, as he cannot of himself grant every condition, in order to treat on sure grounds with him, it must be required, that the Treaty of Peace be approved by the nation or the Power which can make good the conditions. If, for instance, in treating of a peace with Sweden, a defensive alliance and a guaranty be required for the condition, this stipulation will be of no effect unless approved and accepted by the Diet, which alone has the power of imparting validity to it. The Kings of England conclude Treaties of Peace and Alliance, but by these Treaties they cannot alienate any of the possessions of the Crown without the consent of Parliament; neither can they, without the concurrence of the same body, raise any money in the Kingdom. Therefore, when they negotiate any Treaty of subsidies, it is their constant rule to communicate the Treaty to the Parliament, that they may be certain of its concurrence to make good such engagements."

It was in support of and to exemplify that general doctrine, Mr. G. continued, that he had, in a former stage of the debate, brought the instance of Great Britain as the fullest illustration of what he had conceived to be the true operation of the Treaty-making power in those Governments, which were so far similar to our own as to have vested the Legislative and Executive powers, the authority of making laws, and the authority of making Treaties, in different branches, in different hands; yet that illustration had been attacked from various quarters of the House, as if he had attempted to show that the Constitutions of the two countries were similar in any other respects, except those which he had pointed out; and an answer had been attempted, by showing that they were so dissimilar on many points, which did not affect and did not apply to the present question; as if the dissimilarity in some part destroyed the perfect similarity in other parts, and the consequence which flowed from it. The only objection he had heard to that similarity had fallen from a gentleman of Connecticut, who had this morning favored the Committee with a very ingenious and correct speech, and who had stated that, in England, Treaties were not considered as law by the Courts of Justice. So far as related to the Treaties which might operate on objects of a Legislative nature, the observation of the gentleman was true, and, indeed, flowed from the very doctrine Mr. G. was supporting, because in

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that case it was necessary that laws should, in the first place, be passed, in order to render the Treaty operative; but when a Treaty decided on subjects relative to the general Law of Nations, and which could not be embraced by the Legislature, it was considered as law. Thus, if (England being at peace with France and at war with a third nation) an English privateer was to take a French vessel because loaded with their enemy's goods, the Courts of England would consider the Commercial Treaty between France and England as law, and would accordingly release the captured vessel.

But the same gentlemen who objected to a reference to the Government of Great Britain have brought in support of their doctrine the Articles of Confederation, and the practice under the same. They must, however, be sensible that the only reason that can be alleged why the Articles of Confederation are more similar to our present Constitution than that of Great Britain is, that the two first governed the same people. In every other respect, it must be agreed, that our Constitution was far more assimilated to that of England than to the Articles. Again: it must be allowed that the practice of Government under the Confederation had been very loose, and that many important powers had been exercised by Congress which were not delegated to them, but which were justified by common danger, and permitted by common consent. Thus, they had declared the independence of the United States long before there was any written Constitution to which they could recur for the rule of their authority. Thus, they had made war and concluded Treaties before the Confederation existed. Yet, Mr. G. said, he had no objection to investigate that argument, and to examine whether the theory and the practice under the Articles had been correctly stated by those gentlemen.

The argument was this: that by those Articles many of the Legislative powers now vested in Congress were reserved to the States, and, of course, if our doctrine was true, ought to have operated as limitations of the general power of making Treaties given to the old Congress by the same Articles; but that it was not so, as, on the contrary, that general power had been construed as superseding the Legislative authority of the States, an instance of which was given in the Treaty of Peace with Great Britain.

In answer, Mr. G. observed, firstly, that there was an essential difference between the Legislative powers reserved to the States by the Articles of Confederation and those vested in Congress by the Constitution; the first remained with the States by implication, since they were not enumerated; the last were expressly specified and enumerated; the first were only supposed not to have been granted; the last were delegated to Congress by the same instrument which gave the power of making Treaties, and therefore must necessarily be so construed as not to be destroyed, while there would be no absurdity in giving a construction to the Articles of Confederation by which the power of making Treaties should be

supposed to supersede certain Legislative powers, which, before the ratification of the instrument, were vested in the individual States. It might be fairly supposed that the States, when giving by the Articles the power of making Treaties to Congress, meant also to give some Legislative powers they were then possessed of; but it would be absurd to say that, by giving that power to the President and Senate, they meant also to give to them certain Legislative powers, which they were at the same time expressly vesting in Congress.

In the next place, if recourse was had to the Articles themselves, they would be found to contain the following clause:

"The United States, in Congress assembled, shall have the sole and exclusive right and power of determining on peace; of entering into Treaties and Alliances, provided that no Treaty of Commerce shall be made whereby the Legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever."

From which it might be implied, that if the proviso had not been inserted, Congress, by the general power of making Treaties, would have had that of laying lesser duties on foreigners, than the States did on their own people: and, therefore, that that general power was understood to include that of regulating, by Treaty, what duties foreigners should pay. But if another clause of the same articles, to wit:

"No State shall lay any imposts or duties which may interfere with any stipulations in Treaties entered into by the United States in Congress assembled with any King, Prince, or State, in pursuance of any Treaties already proposed by Congress to the Courts of France and Spain,"—

be recurred to, the clear inference is, that if this last clause had not been inserted, the individual States would have had the power of laying duties interfering with stipulations in Treaties; and, therefore, that the general power of making Treaties was not understood to include that of repealing, by Treaty, such laws as the respective States might have made on that subject, or even of restraining the future exercise of their Legislative authority thereon. If, for instance, Congress had made a Treaty stipulating, that a certain species of goods, whether imported by foreigners or citizens, should not pay a duty of more than ten per cent. *ad valorem*, the States, or any of them, might have laid a duty of fifteen per cent. the Treaty notwithstanding, had not that clause been inserted. The practice under the Confederation will be found to have generally conformed to the theory. In order to illustrate it, it will be sufficient to advert to the Treaty of Commerce with France, and to the Treaty of Peace with Great Britain.

There was but one clause in the Treaty with France, which, taking into consideration the general powers of Congress, and the specific restrictions upon States as above mentioned, could be supposed to interfere with Legislative powers re-

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served to the individual States; it was that article which provided that French subjects could inherit real estates within the United States—an article which was repugnant to the general law of the land, by which aliens are not capable of inheriting. Was it, however, supposed, that that article of the Treaty, repealed, *ipso facto*, the laws of the States, and enabled the French subjects to inherit? No; for Congress recommended to the several States to pass laws to that effect. Mr. G. then quoted laws of two of the States made in conformity to the recommendation; the first passed by Maryland, was a complete proof that the Legislature of that State did not think themselves bound by the Treaty, but exercised their discretion thereon; for they added to the clause enabling French subjects to inherit real estates a proviso, declaring, that any such estate should revert to the Commonwealth at the end of ten years, unless the French subject had, within that time, either become a citizen of the United States, or conveyed his inheritance to a citizen; that is to say, that they agreed to carry the Treaty into effect, upon a condition which made no part of the Treaty, or, in other words, that they carried the Treaty into effect, not fully and completely, but conditionally and in part. Mr. G. said he was sensible that the recommendation of Congress and the act of Maryland were liable to an objection, to wit, that they were both passed prior to the final ratification of the articles of Confederation. He would, however, observe that the act of Maryland continued in force after that ratification, and in order to remove any objections on that head, he quoted another act of the State of New Jersey, passed in May, 1781, after the articles of Confederation had been fully ratified; which grants to French subjects the privileges promised by the Treaty, and which, as a proof of the discretion exercised by the Legislature of that State, states as a reason of passing the act, not the positive agreement entered into by Congress, as being binding upon the State, but the services rendered to the United States by France during the war.

As to the Treaty of Peace with Great Britain, there were three articles which might be supposed to interfere with the Legislative powers of the several States: 1st. What related to the payment of debts; 2d. The article providing that there should be no future confiscations or prosecutions against persons on account of the part they had taken during the war; 3d. What related to the restitution of estates which had been confiscated.

As to the first, Mr. G. observed, that by the Law of Nations, it was well understood, that whenever a Treaty of Peace took place, all acts of hostility were to cease, and all private debts were to be paid. The first position would not be denied; and, in support of the last, he read *Vattel*, book 4th, chap. 2:

“Claims founded on a debt, or an injury prior to the war, but which made no part of the reasons for undertaking it, remain entire, and are not abolished by the Treaty, unless it be formally extended to the extinction

of every claim whatever. It is the same with debts contracted during the war, &c.”

It followed from thence, that even if that clause had not existed in the Treaty, any law constituting an impediment to the recovery of private debts, would have been a violation of the Law of Nations, and of the peace between the two countries, unless it was justified by an infraction of the Treaty on the part of Great Britain; and of course, that that article being put in only for greater security, it was binding on the several States, not as part of a Treaty, but as part of the Law of Nations. The same reasoning would apply to the article which prevented future confiscations, if the persons concerned were considered as British subjects. It was true, however, that if they were considered as American citizens, the article was an invasion of the Legislative rights of the States. But as the war with Great Britain was, in its origin, a civil war, as every person concerned was, when it began, a British subject, and it became necessary to establish, by the Treaty, some rule on that head, that article may be considered as declaring, not that States should not confiscate in future estates belonging to American citizens, but that the persons comprehended within the provisions of the article, should be considered as British subjects; which certainly was the most liberal and the most rational construction.

But, when the confiscations which had already taken place are mentioned, then the Treaty assumes a different language; when the act to be done comes clearly within the sphere of the Legislative power of the individual States, Congress do not think, in conformity to the doctrine now held up by some gentlemen, that, by virtue of their general Treaty-making power, they have a right to embrace that object; but they only agree, that they shall recommend to the several Legislatures to pass laws on the subject. In order to prove that it was on that ground, that Congress would not agree to anything more on that head than a recommendation, and of course that the technical sense of the words to make Treaties was not as extensive as now contended for, Mr. G. read the following extract of a letter to Richard Oswald, His Britannic Majesty's Commissioner, signed John Adams, B. Franklin, and John Jay:

“Sir, in answer, to the letter, you did us the honor to write on the 4th instant, (November, 1782) we beg leave to repeat what we often said in conversation, viz: that the restoration of such of the estates of refugees as have been confiscated, is impracticable, because they were confiscated by laws of particular States, and in many instances have passed, by legal titles, through several hands. Besides, sir, as this is a matter evidently appertaining to the internal polity of the separate States, the Congress, by the nature of our Constitution, have no authority to interfere with it.”

Here, said Mr. G., is not only a case in point, but a full acknowledgment of the doctrine he was supporting, that the nature of the Constitution of a country limited the Treaty-making power, although there was no express proviso to that effect;

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for, under the Confederation, the power of making Treaties was given to Congress in as general terms, as it is given by the present Constitution to the President and Senate, and yet it was understood that it did not embrace a subject evidently appertaining to the internal policy of the States, a subject comprehended within the powers supposed to be reserved to the States; a subject evidently of a Legislative nature.

He then read the following extracts from Mr. Adams's journal respecting peace, still on the same subject:

"Congress are instructed against it, or rather have not Constitutional authority to do it. We can only write about it to Congress, and they to the States, who may, and probably will, deliberate upon it eighteen months before they all decide, &c."—"I replied that we had no power, and Congress had no power, and therefore we must consider how it would be reasoned upon in the several Legislatures of the separate States, if, after being sent by us to Congress, and by them to the several States, in the course of twelve or fifteen months it should be there debated."—"We could do nothing. Congress nothing, the time it would take to consult the States."

Also, the following extracts of the official letters of Dr. Franklin, on the same subject:

"We declared at once, that, whatever confiscations had been made in America, being in virtue of the laws of particular States, the Congress had no authority to repeal those laws, and therefore could give us none to stipulate for such repeal."—"I acquainted you that nothing of that kind could be stipulated by us, the confiscations being made by virtue of laws of particular States, which the Congress had no power to contravene or dispense with, &c."—"As to the loyalists, I repeated what I had said to him when first here, that their estates had been confiscated by the laws made in the particular States, where the delinquents had resided, and not by any law of Congress, who, indeed, had no power either to make such laws, or to repeal them, or to dispense with them; and therefore could give no power to their Commissioners to treat of a restoration for those people: that it was an affair appertaining to each State."

It is unnecessary, continued Mr. G., to make any comments on those extracts. From an examination of the Law of Nations of what had been generally understood to be the sense of the words "to make Treaties," and to be the effect of that power, from the manner in which that power operated in limited Governments, and specially in Great Britain, and under the Confederation, the two Governments which had served as a basis and model to our present Constitution, which were mostly contemplated by the people who adopted it, and from whence we had borrowed the very expressions relative to that subject, it evidently appears, that the construction given by the advocates of the present motion, was as consonant to the general acceptance of the words, to the general sense of mankind, and to the opinions entertained both here and in Europe on the subject, as it was consistent with the letter and spirit of our Constitution.

Driven from that ground, the gentlemen who

oppose the motion have recurred to the opinions of individuals, of State Conventions, and finally, of the general Convention which framed the Constitution. Mr. G. little expected to have heard such an appeal as was made yesterday by the gentleman from Maryland; such a doctrine advanced as, that the opinions and constructions of those persons who had framed and proposed the Constitution, opinions given in private, constructions unknown to the people when they adopted the instrument, should, after a lapse of eight years, be appealed to, in order to countenance the doctrine of some gentlemen. He hardly could have expected that the people now should be told—

"You have had a Constitution for eight years, and have adopted it under such impressions as must have resulted from the face of the instrument; but it was the design of those who framed it, that it should have a different construction from that it naturally bears, and they have taken care to record their opinions on their secret journals, journals kept under seal, and preserved for the purpose of being appealed to, on a proper occasion."

As Mr. G. did not know what had passed in that Convention, he could not make any remarks upon it. But for what purpose was the appeal made? Was it in order to create suspicions which could not be with propriety directly removed? Was it in order to throw a hint, that some gentlemen on this floor were acting inconsistently with what they had formerly professed? The object was not, he was sure, to throw light on the subject. The intentions of the parties to an instrument, of those who ratify it, who give it effect, who are bound by it, may be of use to discover its meaning; but it was the first time he had heard that the intention of those, who might be employed to draw the instrument, was to be taken as a rule of construction. The intention of a Legislature who pass a law may perhaps be, though with caution, resorted to, in order to explain or construe the law; but would any person recur to the intention, opinion, and private construction, of the clerk who might have been employed to draft the bill? In the present case, the gentlemen who formed the general Convention, however respectable, entitled as they were to the thanks and gratitude of their country for their services in general, and especially on that important occasion, were not of those who made, who passed the instrument; they only drew it and proposed it. The people and the State Conventions who ratified who adopted the instrument, are alone parties to it, and their intentions alone might, with any degree of propriety, be resorted to. And, even so far as related to the opinions expressed in those Conventions, it had been properly stated that the sentiments of those who objected to the adoption of the Constitution, could not have much weight as a rule of construction, nor could the amendments which had been proposed by some of those Conventions, be, with propriety, brought forward as a test of their opinion, or of the true construction of the Constitution; for those amendments were adopted in order to conciliate the opinions

of a majority, and they were proposed as much with a design to explain doubtful articles as with a view to obtain alterations. He would add, that not one of the amendments which had been read, or which he had seen, applied to the question now under discussion; they all tended to give a different construction to the Constitution from that he now contended for, and therefore could, with great propriety, have been proposed by Conventions, or by individuals, who understood the Constitution in the same sense he did, but who wanted some further alterations, some further security, some further check, than even the construction now contended for, by the advocates of the motion, did give. Yet, upon that ground, an argument had been attempted, specially directed to himself.

It had been stated, that after the adoption of the Constitution, he was one of a meeting composed of many citizens of Pennsylvania, who met at Harrisburg in the year 1788, and there drew a petition to the Legislature of their State, requesting them to take Constitutional measures to obtain some amendments to the Constitution, one of which applied to the subject of making Treaties. He would ask whether that meeting, and he as one of them, were not fully justifiable in their fears that that part of the Constitution might be misconstrued? Whether the doctrines now held, in favor of the unlimited effect of the Treaty-making power, did not afford a satisfactory proof that they were right in wishing for such a Constitutional explanation as would remove all doubts on that subject? But as the remark had been made with a design to throw an appearance of inconsistency on his conduct, he was obliged to relate a fact with which he would not otherwise have troubled the Committee. More than two years ago, whilst he had a seat in the Senate of the United States, before it had ever been suggested that an Envoy was to be sent to England, a Senator from Georgia had moved in that body an amendment to the Constitution, purporting that the Treaty-making power should not extend so far as to dismember a State. The amendment was debated, and its propriety supported and opposed on the supposition that that power did, by the Constitution, extend to that object. He had on that occasion opposed the amendment on the same grounds on which he now supported the present motion; he had held out the same doctrine which he now contended for, to wit: that the Treaty-making power was not boundless, that it was limited by the Constitution, that it did not embrace that object which was contemplated by the proposed amendment. What general effect his arguments then had he could not tell. All he knew was that they were not answered, and that the gentleman who had made the motion declared himself satisfied and withdrew the amendment. He did not wish to give more weight to a trifling fact than it could bear, and he had mentioned it solely to repel the personal insinuation thrown out that he had formed his present opinion on the spur of the occasion, and in order to serve some favorite purposes.

The only contemporaneous opinions which could

have any weight in favor of the omnipotence of the Treaty-making power, were those of the gentlemen who had advocated the adoption of the Constitution; and recourse had been had to the debates of the State Convention in order to show that such gentlemen had conceded that doctrine. The debates of Virginia had first been partially quoted for that purpose; yet, when the whole was read and examined, it had clearly appeared, that, on the contrary, the general sense of the advocates of the Constitution there, was similar to that now contended for by the supporters of the motion. The debates of the North Carolina Convention had also been partially quoted; and it was not a little remarkable, that whilst gentlemen from that State had declared on this floor, during the present debate, that they were members of the Convention which ratified and adopted the Constitution, that they had voted for it, and that their own and the general impression of that Convention was, that the Treaty-making power was limited by the other parts of the Constitution, in the manner now mentioned, it was not a little remarkable, that in opposition to those declarations, a gentleman from Rhode Island had quoted partial extracts of the debates of a Convention also in North Carolina, who rejected the Constitution. Yet in those very debates its would be found that the learned Judge, whose opinion had been mentioned in the very speech which had been quoted, had, when answering the objections made to the dangerous consequences of the Treaty-making power, explicitly declared, "that the weight of the immediate representatives of the people (both in Great Britain and under the Federal Constitution) had great authority added to it, by their possessing the right of exclusively originating money-bills. The authority over money will do every thing. A Government cannot be supported without money. Our Representatives may, at any time, compel the Senate to agree to a reasonable measure by withholding supplies till the measure is consented to." Was not this allowing a full discretion in money matters to this House—a discretion which they might use even in the case of Treaties, as a complete check on the Senate? A gentleman from New York [Mr. WILLIAMS] had read to them an amendment proposed in the Convention of that State, by which it was required that no Treaty should abrogate a law of the United States, from whence he inferred that that Convention understood the Treaty-making power would have that effect, unless the amendment was introduced. The gentleman, however, forgot to inform the Committee that that amendment did not obtain; and therefore, that the inference was the reverse of what he had stated.

Leaving, however, to other gentlemen to make further remarks on the debates of the Conventions of their respective States, he would conclude what he had to say on that ground by adverting to the debates of the Pennsylvania Convention. The only part of those debates which had been printed contained the speeches of the advocates of the Constitution, and although the subject was but slightly touched, yet what was

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said on the subject, by the ablest advocate of that Constitution, in Pennsylvania, by the man who had been most efficient to enforce its adoption in this State, would be found to be in point. He then read the following extract from Judge Wilson's speech (pages 110 and 111 Debates of Pennsylvania Convention): "There is no doubt but under this Constitution Treaties will become the supreme law of the land; nor is there any doubt but the Senate and PRESIDENT possess the power of making them." Mr. Wilson then proceeds to show the propriety of that provision, and how unfit the Legislature were to conduct negotiations, and then expresses himself in the following words: "It well deserves to be remarked, that though the House of Representatives possess no active part in making Treaties, yet their Legislative authority will be found to have strong restraining influence upon both PRESIDENT and Senate. In England, if the King and his Ministers find themselves, during their negotiation, to be embarrassed, because an existing law is not repealed, or a new law is not enacted, they give notice to the Legislature of their situation, and inform them that it will be necessary, before the Treaty can operate, that some law be repealed, or some be made. And will not the same thing take place here?"

After such pointed contemporaneous expositions of the true meaning and spirit of the Constitution, would it still be asserted, that the opinions now expressed were a new-fangled doctrine; unheard of, and unthought of, till the British Treaty became a subject of discussion; inconsistent with former opinions, with the practice under the Confederation, and other Governments similar to our own, with the Law of Nations, and the general sense of mankind?

But another objection, still less connected with the subject, altogether unsupported by the letter of the Constitution, had been stated by those gentlemen who declared that their doctrine was not grounded on implication. "The sovereignty of the States, they said, was represented in Senate: the power of making Treaties was an attribute of sovereignty. In Senate the small States had an equal weight with the large ones; they would be swallowed up, and their sovereignty annihilated, if the House of Representatives, as a branch of Congress, had a restraining power, in Legislative cases, over the exercise of the Treaty-making power." Of all the arguments brought on this occasion, none was more groundless, and, indeed, unmeaning. It was, if not designed, at least calculated, solely for the purpose of exciting prejudices and reviving animosities. The power of making laws lodged in Congress, was as complete an attribute of sovereignty, as that of making Treaties. So far as the individual States had divested themselves of certain powers, and delegated them to the General Government, or to any branch of it, so far they had, in fact, parted with their sovereignty, and even more so, in cases where the Senate was concerned, as that body, from their duration, was less dependent on their constituents than this House. If the difference of representation in the two branches of the Legis-

lature was examined, and the view, which the Constitution gave of its operation, contemplated, it would be found that its fundamental principle was this, that no law could be passed without the consent of the majority of the people, nor without the consent of the majority of the States; a principle equally liberal and just; a principle equally consonant with that of an equal representation, and that of the independence of the individual States; a principle which the construction he gave to the Constitution did not offend, since the power claimed by the House was restraining and not active, whilst the adverse doctrine tended to its annihilation; since it was grounded on the idea, that, by the operation of a Treaty, laws were repealed, and an obligation of enacting laws was imposed, without, or perhaps against, a majority of the people. But another essential principle of our Constitution, a principle as important to the people of the small States as those of the large States; a principle whose subversion would destroy the liberties of the people of the United States, in whatever part they might reside; a principle for which they had contended, and which was the basis of our Revolution, and of all our Governments, the sacred principle that the people could not be bound without the consent of their immediate Representatives, was also prostrated by that truly novel doctrine in America, that those immediate Representatives were bound by the mandates of the Executive; and that, deprived of their discretion, of the freedom of their will, they must implicitly obey and execute laws made by another set of agents of the people, and not immediately chosen by them.

Having now taken a review of the arguments and objections drawn from other sources than the Constitution itself, Mr. G. said, it was necessary finally, to recur to the instrument, the meaning of which could perhaps be explained in doubtful cases, but never could be altered or subverted by any opinions or precedents, although it must clearly appear that those opinions and precedents strongly corroborated the construction he gave to the Constitution; he wished that opinion to be tried by the letter of the instrument alone.

The different clauses of the Constitution must be so construed as to be rendered consistent, and to be reconciled one with the other; and that construction must be rejected which would destroy any of them. Two things must, therefore, be proved, in order to establish the discretion claimed by the House; first, that the doctrine of those who opposed the motion, destroyed the clauses that granted specific Legislative powers to Congress; and, secondly, that the construction given by those who supported that motion, did not annihilate the power of making Treaties vested in the PRESIDENT and Senate.

The first point resulted from the following considerations: 1st. The power of making Treaties being granted in an undefined manner, may, if it is understood not to be restrained by the specific Legislative powers of Congress, embrace and supersede every one of them; since, under color of making Treaties, the PRESIDENT and Senate may

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stipulate on any object whatever, whether of a Legislative nature or not, and, therefore, those stipulations, according to that doctrine, being binding upon the nation and Congress, may legislate, repeal acts of the Legislature, and restrain the future exercise of legislation upon any subject whatever. 2d. If it is said, that the power of making Treaties is limited, by its own nature, to such objects as do commonly become subjects of compact between nations, it will be found that some of those stipulations, which are often inserted in Treaties commonly made between nations, would supersede some of the most important specific powers of Congress. Much had already been said upon Treaties of Commerce, considered as clashing with the power given to Congress to regulate commerce, that subject being most immediately connected with the one now under discussion; but it would, perhaps, better illustrate the effect of that doctrine, were we to examine the operation of Treaties of Alliance and Commerce, on the three great powers vested in Congress—to declare war; to raise and support land and sea forces; and to raise money either by loans or taxes. If any Treaty, which is not null by the Law of Nations, is binding upon the nation, provided it is not unconstitutional, if it is not unconstitutional to stipulate that an act shall be done which it is in the power of Congress to do; and if, in such a case, Congress are bound to do the act, whenever the PRESIDENT and Senate shall, by a Treaty of Alliance, a species of Treaty consonant to the Law of Nations; whenever they shall stipulate, in consideration of some real or supposed advantages conferred upon us in return; that if a certain nation is attacked, or if certain circumstances mentioned in the Treaty take place, the United States shall assist them as auxiliaries, either with certain stipulated sums of money, or with a certain number of troops, or ships, or shall make a common cause with them, assist them with all their forces, and become principals in the war; all which stipulations are usual between nations, all which stipulations may be carried into effect by the Constitutional powers of Congress, and therefore, would not annul the Treaty, either as contrary to the Law of Nations, or as unconstitutional; whenever the PRESIDENT and Senate shall have made such stipulations, and the circumstances contemplated in the Treaty shall take place, Congress shall be bound to raise money, to raise armies, to provide a navy, or even to make war. They will have no discretion on the subject; for the expediency, the propriety of the measure are not amongst the considerations which must actuate them. The Treaty is a compact made by the agents of the people; it is the supreme law of the land; it binds Congress as it does the nation; Congress must obey it; Congress must execute it. They are not at liberty to exercise the power to borrow money and lay taxes; but they are compelled to do either. They have not the power to raise armies and to maintain a navy; but the Treaty has declared they shall do both, and they are bound to do it. They have not the power to declare war; but it is for them a duty, a moral obligation to proclaim

it. The PRESIDENT and Senate have the power, specifically vested in Congress by the Constitution, to stipulate that money shall be raised, troops levied, and war waged in favor of one nation and against another. The discretion left to Congress is, to decide, perhaps, upon the organization of the troops, the pay of the officers, and the uniform of the soldiers. The discretion left to Congress is to decide, whether the moneys shall be raised by a direct tax or an impost; and even there, perhaps, their discretion has been curtailed; perhaps they have no choice left; perhaps Treaties of Commerce with those nations, whose importations supply the imposts, shall have declared that no higher duties shall be laid; nay, they may have fixed the tariff of duties, as many similar Treaties often do; they may have declared that those goods, from whence our greatest revenue is drawn, shall pay but five per cent. instead of twenty; they may have repealed all the contravening laws which stood in the way of stipulations; Congress may be forced not only to raise money, but also to raise it in a certain way. By the Constitution Congress have power, a discretionary power, to legislate on the subjects of money, armies, and, war; to declare not only how moneys shall be raised, armies supported, and war carried on, but, also, whether there shall be a war or not, whether an army shall exist or not, whether money shall be raised from the people or not; and the PRESIDENT is to execute the laws they pass on those important subjects. By the Treaty doctrine, the PRESIDENT and Senate have the Legislative power to declare that the people shall pay money; that troops shall be raised; that war shall be declared; and Congress must execute the Legislative decrees thus passed by the Executive. The discretion of the Executive is full, complete, and of a Legislative nature; the discretion left to Congress is only that which is incident to the execution of a law.

A gentleman from Connecticut [Mr. GOODRICH] had said, however, that the Constitution, by specifying those powers given to Congress, did not mean to draw the line between the powers of the different branches of the General Government, of the Legislative and Executive departments, but only to define the authority which was to belong to the Government of the Union, and to distinguish it from the powers left to the individual States. To read the Constitution was sufficient to show that those powers were given solely and exclusively to the Legislative branch. But would it be declared, Mr. G. asked, would it be asserted, by those gentlemen who had appealed to the contemporaneous opinions of individuals and conventions, that the people had ever supposed that the Constitution, by delegating the powers of war and of raising moneys to the Legislature of the Union, had only designed to mark the extent of the authority given to the General Government, and not to ascertain with precision which of the departments of that Government should exercise it? Would it be insisted that it ever was the intention of the people of the United States to invest an unlimited and uncontrolled power over

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the purse and the sword in the PRESIDENT and Senate?

Some attempts have been made, not to repel, but to obscure, in some degree, the self-evident truth of these propositions. It had been said, that the power of making Treaties was not unlimited; for an unconstitutional Treaty could not be made. If, by an unconstitutional Treaty, such one was meant as stipulated regulations on objects delegated to Congress, then the doctrine would go still further than the one contended for by the supporters of the motion; for it would follow from that position, that whenever a Treaty stipulated a condition embracing an object on which Congress had a Legislative power, such Treaty could not, even with the assent of Congress, be carried into effect, since no constituted authority could give effect to what they would admit to be an unconstitutional act, whilst it was only insisted on his side of the House, not that such a Treaty was unconstitutional, but that the consent of Congress was necessary to carry it into effect or make good such a condition. To draw a line between some powers of Congress and some others was not warranted by any part of the Constitution; and if it was declared that a Treaty could not, consistent with that instrument, stipulate on certain objects belonging to the Legislative jurisdiction of Congress, it must be conceded that it could stipulate on none. But if it was declared that a Treaty embracing any objects whatever, submitted to the power of Congress by the Constitution, was not unconstitutional, then the concession that an unconstitutional Treaty was void, did not change the state of the question, and all the preceding arguments applied to it with equal force; since, notwithstanding that pretended concession, it did not the less follow that the Legislative power of Congress was destroyed by the extent of jurisdiction claimed in favor of the Treaty-making power. Indeed, whilst it was said that an unconstitutional Treaty was such a one as would change the Constitution, as would, for instance, stipulate that the Executive should hereafter exercise Legislative powers; it was avowed that a Treaty made by the PRESIDENT and Senate, which did assume Legislative powers, which did actually legislate on objects delegated to Congress, so far from being unconstitutional, was binding on Congress, and even the stipulations embracing such objects, were the law of the land. Another argument had been used to weaken the position, that the Treaty doctrine destroyed the Legislative power of Congress, to wit: That the two powers were two distinct ones, operated in a different manner and on different objects. So far as they were really distinct, and operated on objects exclusively belonging to either, there was no difference of opinion; there could be no apprehension that they would clash; but the argument seemed to suppose that they had a kind of concurrent jurisdiction over the objects which might be embraced by both; that the one acted by law, the other by compact; that the one operated only on American citizens, whilst the other extended even to foreigners, and

could reach to objects which Congress could not control.

In fact, that argument was nothing more than a position, which was taking for granted what remained to be proved. It stated, that the Treaty-making power superseded the Legislative, because it could extend farther, because it could bind another nation; that is to say, that for the sake of obtaining as a stipulation, that another nation would do a certain act, or would desist from doing a certain act, it had the power to pledge the faith of the American nation, that a certain act should be done, which, not the PRESIDENT and Senate, but the Legislature alone had a Constitutional power to do. This was precisely the point of discussion. It was supposing the identical position on which they differed, to wit, that the assent of a foreign nation might be substituted to that of the House of Representatives. It was supposing that a Treaty, because made in a different manner, was a distinct thing from a law, at the same time that it attempted to regulate the same subjects with the law: It was saying, that because a Treaty and a law differed, so far as related to another nation, they also differed when doing or attempting to do the same act; to wit, to legislate on the American nation. Supposing that there existed a concurrent jurisdiction, yet there is nothing in the Constitution which decides which of the two powers shall be paramount; which supersedes the other; nor does the principle, that a subsequent law abrogates and repeals all prior laws, apply to the present case, and prove that a Treaty must repeal contravening laws which are opposed to it; for that principle is grounded upon another one, that an act may be undone by those who have made it; but never was it understood that an act done by a constituted authority could be abrogated by another constituted authority, unless it was positively expressed by the instrument which constituted both.

A Constitution could be repealed only by a Constitution or by Constitutional amendments; a Treaty could be repealed only by the consent of the parties who had made it; a law could be repealed only by a law. It was as absurd to say that a Treaty could repeal a law, as to say that a law could repeal the Constitution. But if neither power was paramount, how could it be supposed that they had concurrent jurisdiction? Was it not contradictory to say that the Constitution had vested in Congress the power of laying by law, a duty of 25 per cent. on a certain species of goods, and, in the PRESIDENT and Senate, that of laying, by a Treaty of Commerce, a duty of 5 per cent. on the same species of goods, and that both powers could operate together; that the last could be carried into effect whilst the first was still in force? Was it not absurd to suppose, that the Constitution had vested in Congress the power of declaring war, by law, against England, and at the same time, in the PRESIDENT and Senate, that of stipulating by Treaty of Alliance with England, that America should unite with that nation against France, and, that both powers could operate together, that the war could be carried on

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at the same time in concert with and against both nations? The two powers cannot operate on the same objects, unless they have a concurrent jurisdiction, unless one of the two be paramount and supersede the other, when they shall clash; or unless the consent of both be made necessary in such case. Neither can it be supposed to be paramount, unless it be expressly so declared by the Constitution; and if there be no such declaration, the Constitution must receive a construction which will destroy neither. Thus, in whatever view this argument be contemplated, it leaves the subject of discussion precisely in the same situation where it was.

But some gentlemen, apparently struck with the absurdity of the doctrine contended for, had declared, that there was a certain discretion in the House, that in extreme cases, in those cases where a Treaty was concluded by fraud, or in its effects would ruin the nation, as such Treaty was not considered as binding by the Law of Nations, the House, as a branch of Congress, had a right to refuse to carry it into effect. If those gentlemen meant that the House were judges of those extreme cases, where they might exercise their discretion, and had annexed no condition, had laid no restraint upon their judgment thereon, they would be nearly agreed with themselves; as every member of this House would, according to his own sense of propriety, decide whether the case was such one, as it was right to exercise his discretion or not; but, in fact, the discretion allowed amounted to nothing more than this, that in those cases where a Treaty was null by the Law of Nations, the House were at liberty to say, whether they would abide by it or not; but that in all other cases, although it might embrace Legislative objects, it was binding upon Congress, and that they were bound to execute it, unless they chose to break a compact, to be guilty of a breach of faith. The supposed concession conceded nothing.

Mr. G. hoped, that from the review he had taken of the consequences flowing from the Treaty doctrine, and of the arguments used to controvert those consequences, it must satisfactorily appear, that their objections to that doctrine did not rest on the ground that the power of making Treaties might be abused, but that they went to the doctrine itself, by showing, not only that it was dangerous, but that it was unconstitutional; inasmuch as its operation would supersede and annihilate those clauses of the Constitution, which vested specific powers in Congress. He would now proceed to establish his second position, that the construction given to the Constitution, by the supporters of the motion, did not destroy the Treaty-making power, but left it a sufficient field of action.

Although the reverse had been repeatedly asserted, no argument that he recollected, had been advanced on that head, by the gentlemen who opposed the motion, except what had fallen from a gentleman from Maryland, to wit, that if it was admitted, that a Treaty depended, for its validity, on a condition which the House might refuse to carry into effect; that Treaty could not be consid-

ered as made without their consent, and that of course, that doctrine implied in the House a right of co-operating in making Treaties which was contradictory to the clause of the Constitution, that vests the power of making Treaties in the President and Senate. This was a mere criticism on the meaning of the word "make;" and supposed that the discretionary right of making good a condition of the Treaty, was a part of the act of making a Treaty.

Without entering into an elaborate discussion of the meaning of the word, Mr. G., observed, that it would be sufficient to mention that it was expressly declared by the Constitution, 1st. That Congress consisted of a Senate, and House of Representatives, which implied that the President was no part of Congress: 2dly. That Congress had power to make laws; (sect. 8th of 1st. art.) 3dly. That the President had, however, a co-operating power in enacting laws from whence it resulted, that in the Constitution, the word "make" was sometimes used in a modified, and not in an absolute sense.

That the power claimed by the House did not destroy that of making Treaties, could be proved, in a direct way by the following considerations:

1st. So far as related to Treaties of Peace which contained no condition of territory, of a payment of money, or otherwise of a Legislative nature, (and by recurring to the Treaties of that species, concluded by the British nation, it would be found that the greatest number contained no such conditions), the power of the Executive remained entire.

2dly. Whenever Treaties of Commerce, Navigation, &c., stipulated on those points on which the Law of Nations does not interfere with, or control the municipal laws of individual nations, all such stipulations were out of the sphere of action of the Legislative power, became a modification of the Law of Nations, and a law of the land, from the moment the Treaty was promulgated. The law which regulated the respective duties of civilized nations, whether grounded on their natural rights and duties, or on common consent, was, within its sphere, paramount to the municipal laws of any nation, and no nation could infringe it in those respects, without declaring itself at hostility with the whole civilized world. Treaties, which defined and modified that law, became a part of it, and must necessarily control the municipal laws of the contracting nations. Within that class might be included all those conditions, which provided for the cases of shipwrecks, salvage, assistance to be given vessels driven in ports, and all the duties of neutral nations within their territory. But that law, and the Treaties made in pursuance thereof, extended to a number of objects, which the Legislative power of no country did embrace. Such were the use of what belonged to all, of the sea, and consequently the rights of fisheries, &c. Such again were the provisions regulating the duties and rights of neutral nations, in their intercourse out of their own territory, with nations at war; which included all the stipulations relating to what should be deemed contraband goods, to the question whether

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free bottoms should make free goods, &c., all which objects, and a variety of others, coming within the same description, did solely belong to that branch of the Government, in whom was vested the power of making Treaties.

3dly. The extensive range left to the Treaty-making power would be still more enlarged, if not from the letter, at least from the necessary operation of our Constitution. Whenever a Treaty stipulated, not that the Legislature should do certain acts, but that they should not hereafter do certain acts; for instance, that they should not increase the duties upon importations, that they should not sequester private property, &c.; although Mr. G. was not prepared to say, that such a condition was binding upon the nation and Congress, yet he would not hesitate to assert, that the House had not the power to impede its execution. To prevent the execution of such a stipulation, it would be necessary that a law, contravening the condition, should be passed. The House of Representatives, being but one of the branches of the Legislature, might prevent the passing of a law, but could not enact one, without the consent of the other branches. The negative of the Senate, of that body who had advised and consented to the stipulation, would always be sufficient to prevent such a law from passing, and therefore to carry into effect conditions of that nature.

To conclude, the power claimed by the House was not that of negotiating and proposing Treaties; it was not an active and operative power of making and repealing Treaties; it was not a power which absorbed and destroyed the Constitutional right of the President and Senate to make Treaties; it was only a negative, a restraining power on those subjects over which Congress had the right to legislate. On the contrary, the power claimed for the President and Senate, is, that under color of making Treaties, of proposing and originating laws, it is an active and operative power of making laws, and of repealing laws; it is a power which supersedes and annihilates the Constitutional powers vested in Congress.

If it was asked, in what situation a Treaty was, which had been made by the President and Senate, but which contained stipulations on Legislative objects, until Congress had carried them into effect? Whether it was the law of the land, and binding upon the two nations? Mr. G. said, he might answer, that such a Treaty was precisely in the same situation with a similar one concluded by Great Britain, before Parliament had carried it into effect.

But if a direct answer was insisted on, he would say, that it was, in some respects, an inchoate act. It was the law of the land, and binding upon the American nation in all its parts, except so far as related to those stipulations. Its final fate in case of refusal, on the part of Congress, to carry those stipulations into effect, would depend on the will of the other nation. If they were satisfied that the Treaty should subsist, although some of the original conditions should not be fulfilled on our part, the whole, except those stipulations embracing Legislative objects, might remain a Treaty.

But if the other nation chose not to be bound they were at liberty to say so, and the Treaty would be defeated.

He would not tire any longer the patience of the Committee; and, as it was a late hour, he would drop what further observations he had to make on the subject; but he could not sit down without animadverting on what had so frequently been hinted, and even mentioned during the debate, that the effect of adopting the resolution was "war and disorganization." At no time and on no subject was the cry of the alarmist less applicable. Was the Treaty itself to be rejected war would not be the consequence; but, in that case we would remain in the same situation in which we have been since the Treaty of 1788. But the present question was not a question on the adoption or rejection of the Treaty. Some gentlemen, from their earnestness to carry a favorite measure, might have blended their wishes on that subject with the merits of the present question; but they had no right to impute motives of a similar nature to those who differed in opinion with them. As to the Treaty itself, he might have his own feelings, his own prejudices; but he hoped they would not govern him on a final decision on that solemn occasion. Whether, under the present circumstances, it would be expedient to carry that compact into effect, was not the present question, and he was not himself ready to decide. In giving his vote in favor of the motion, he did not consider himself pledged to vote against the Treaty; and when that question came before them he would be perfectly open to every argument of expediency which might be offered in its favor.

But it had been said that the present motion, and some of the arguments advanced to support it, bore the appearance of a wish to subvert our Constitution. The assertion was justifiable, neither by the nature of the discussion, which was only an investigation of an important Constitutional point, nor by the arguments brought by those who were in favor of the motion, nor by the temperate manner in which they had conducted the debate. Those, Mr. G. said, might be branded with the epithet of disorganizers who threatened a dissolution of the Union, in case the measures they dictated were not obeyed; and he knew, although he did not ascribe it to any member of this House, that men high in office and reputation, had industriously spread an alarm that the Union would be dissolved if the present motion was carried. On such a conduct he would make no comments. So far as he knew his own sentiments; so far as he knew the sentiments of those he was now acting with; so far as he knew the sentiments of the people of America, he was convinced that, to preserve the Union, and that great bond of Union, the Constitution, was the primary object with all; that, in order to preserve it, they would support the constituted authorities of the nation, and submit on this and on any future occasion to the public will, as expressed by the voice of the majority.

Mr. COOPER rose after Mr. GALLATIN, for the

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purpose of inquiring if he had taken correctly an idea that was urged with great force by that gentleman, which was, that it was highly improper to call on the Representatives present, who assisted at framing the Constitution, to declare what the construction of that body was of the Treaty-making power; for, says he, why travel back for this information? We have the Constitution before us, and from the instrument the explanation must be drawn. Why then does the scope of the gentleman's argument go to demand those papers out of which the Treaty hath arisen? Why not explain, on the gentleman's own principles, the Treaty by the instrument itself? It seems to me, said Mr. C., that there is a manifest inconsistency in the gentleman's reasoning, unless he means to destroy his principle by his doctrine; in that case it is proper.

Mr. HARPER rose and observed, he should not consider himself as having discharged his duty to the public, did he suffer the question to be taken without any observations being made on what had been advanced by the member last up from Pennsylvania; and he was the more willing to take this task on himself, as the debate had taken a turn altogether different since he first had the honor of addressing the Committee on the subject of the present resolution.

[Here there was some noise in the Committee, and a call for order; on which Mr. H. observed, that he should not ask for order; that, if he could not command it, he hoped he should have the good sense to understand the language of the Committee, and be silent; and, while he could engage attention he would continue his remarks.]

Mr. H. went on to observe, that when he had formerly been up on this question, the only discretion claimed on the part of the House, by the supporters of this resolution, was a discretion to withhold its aid, where Legislative aid was requisite, in carrying Treaties into effect. He had opposed the resolution on this ground, that the papers to be called for were not necessary for enabling the House to execute this discretion; that their decision on it was to be guided by the instrument itself, and not by the instructions or the previous negotiations, the call for which implied an opinion that the House had a right, not only to determine whether it would co-operate in carrying a Treaty into effect, but also to interfere in making Treaties. The supporters of this motion finding, as he supposed, that the discretion to refuse or give the aid of the House in carrying Treaties into effect, would not justify the call for papers, had immediately changed their ground, and asserted a right to interference in making Treaties. The honorable member from Pennsylvania, [Mr. GALLATIN,] to use his own expression, had come boldly out and asserted, "That a Treaty is not valid, does not bind the nation as such, till it has received the sanction of the House of Representatives." On this point a very able and lengthy debate had arisen; and, in the close of it, the honorable member had collected all his force to support this principle, that a Treaty is incomplete, is an inchoate thing, till it receives the

sanction of this House. He had drawn arguments in aid of it from all the various sources of reasoning and authority, and from thence had very ably deduced conclusions, some of which were solid, all of which were ingenious, and all deserving of serious examination.

The observations, he said, of the honorable member had been directed to two points: First, that a Treaty, though ratified by the President and Senate, with all the forms of the Constitution, does not become complete and valid as such, does not in fact become a Treaty, till passed by this House. Secondly, that a Treaty, when completely made, cannot repeal or supersede an existing law.

The first position he had supported by various arguments, drawn from the Law of Nations, from our own Constitution, and from the practice of other Governments.

The authorities cited from the Law of Nations, Mr. H. said, from *Vattel*, prove that, in limited Governments, the power of making Treaties may be limited; that, when a nation bestowed the Treaty-making power on any branch of its Government, it might bestow it under various limitations. Of this, said he, no body could doubt. Nobody could doubt that the American people might, when they were framing their Constitution, have bestowed this power on any other branch of the Government, or under any kind or number of restrictions; but the question was, had they restricted it? Not what they could do, but what they did. And this led to a consideration of the Constitution itself.

The Constitution gave the power of making Treaties to the President and Senate; the power of making laws, the whole Legislative power delegated to the Government, was given to Congress. There was no direct, express restriction to the Treaty-making power; but an indirect, implied restriction was contended for from the Legislative power.

In order to discover how far these powers could restrict each other, it was necessary to inquire how far they might interfere; and that inquiry would lead us to consider the nature of Treaties and the nature of laws, the origin from which each is derived, the objects on which they act, the manner of their operation, the purposes for which they are intended, and the effects which they are able to produce. If it should appear that in all these respects they were different, that they could neither produce the same effects, operate in the same manner, nor effect the same objects, it would follow that they moved in different spheres, in which each operated uncontrollably and supreme, could neither encroach on, interfere with, or restrict each other.

Treaties, he observed, then, derived their origin and their existence from the consent of equals; laws from the authority of a superior. The former were compacts, the latter commands. Treaties derived their sanction from good faith, from national honor, from the interest of the parties to observe them: laws derive their sanction from the authority of the community, which enforces

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their observance and punishes disobedience. A Treaty stipulates that a thing shall be done, a law commands it. A Treaty of consequence may stipulate that a law shall be passed, but it cannot pass a law; that belongs to the Legislative power.

A Treaty may agree that a tax shall be laid, or a crime shall be punished; but it cannot lay the tax or inflict the punishment—that must be done by a law, and is the exclusive province of the Legislative power. Suppose a Treaty should stipulate that ten per cent. additional duty should be laid on goods imported in Swedish vessels: will any one say that the revenue officers could go on and collect the duty without a law? Surely not. The faith of the nation is bound, and the Legislature is under all that obligation to pass the law, which results from considerations of good faith, from the necessity of observing Treaties; but still the effect cannot be produced, the duty cannot be collected, till a law is passed. So, if a Treaty should stipulate that certain acts should be punished with fine, imprisonment, or death, could indictments be founded on the Treaty, and the punishment be inflicted without a law? Certainly not. Treaties, therefore, can never, in their nature, operate as laws, can never produce the effect of legislation: they are compacts and nothing more, and, in the sphere of compacts, they are supreme and unlimited. They may bind the nation, may lay the Legislature under the obligations of good faith; but they cannot encroach on the Legislative power, cannot produce a Legislative effect.

A distinction here ought to be observed between the Law of Nations and the Municipal Law. The former is the province of Treaties, the latter of the Legislative power. The Law of Nations is made of compacts, express or implied; of Treaties which are direct declarations of the consent of sovereign States, and of customs which rest upon the general consent of nations, implied from long acquiescence. In all subjects, then, relative to the Law of Nations, to matters external, to the conduct of nations towards each other, Treaties are laws, and produce immediately and indirectly the effect of laws. As such, the Maritime Courts, which are guided by the Law of Nations, are bound to take notice of them and enforce them. This was from the necessity of the case, because the matters on which the Law of Nations operates lie beyond the reach of ordinary legislation, without the jurisdiction of individual States, and consequently can only be regulated by laws derived from the general consent of nations, of which Treaties form a part. But, as to the municipal laws, he said the case was different. They affected objects within the jurisdiction of the respective sovereigns, and belonged exclusively to the Legislative power. These Treaties lost their character of laws, and became merely compacts, binding on the good faith of the nation, but depending for their execution on the acts of the Legislative authority.

Thus, he said, it appeared that the Treaty-making and Legislative powers being each supreme in their respective orbits, could not interfere with or restrict each other. Both compacts and laws are

necessary to be made; both are essential to the attainment of those advantages which result from civilized society; and the power of making each must exist in every Government. In ours these powers are placed in different departments, which must sometimes co-operate, in order to produce the desired effects, but neither could execute the business of the other. The Legislature could not make a compact, nor could the Treaty-making power make a law. It may stipulate, and very often must stipulate, that a thing requiring a law shall be done, but this does not render the law less necessary, and can be no more considered as an invasion of the Legislative power, than a law directing a compact to be made with a foreign nation, as an invasion of the Treaty-making power. The law would not produce the effect of a Treaty, nor render the agency of the Treaty-making power less necessary.

Whence, then, he demanded, these alarms about the encroachments of the Treaty-making power? Whence these outcries about the subversion of all Legislative authority in Congress? Whence these phantoms conjured up to frighten us out of our reason and common sense? This Treaty-making power, so much the object of gentlemen's apprehensions, this devouring monster, before which the rights of this House, the powers of Congress, and the liberties of the people, are to fall and be extinguished, appears on examination to be the most harmless of powers—a power to make compacts, which must depend for their execution on the aid of the Legislature—a power, therefore, at all times, and, of necessity, under Legislative control in all its most essential and important operations. He therefore contended that the Treaty-making power was free and unrestricted in the PRESIDENT and Senate; so that a Treaty, when ratified by them as the Constitution requires, became complete in its own nature, perfect as a Treaty, without the concurrence of the House of Representatives; bound the faith of the nation as completely as a Treaty can bind it, and that the House of Representatives had nothing to do with it, but to consider whether and how far they could carry it into effect. In this, and this alone, their agency was necessary; and here, from the nature of the thing, they had a free agency.

Some gentleman had said that the House was bound to carry a Treaty into effect. But how was it bound? By a superior and external force acting upon it, and compelling it to do the thing, as an individual is bound to fulfil his contracts? No. It is bound by considerations of good faith, by considerations of duty and propriety, by the obligation to do right, by the responsibility of each member to himself, his constituents, and the public. But who is to judge what is right; what good faith, public good, and moral obligation prescribe? Each individual must judge for himself, and must act according to his own scale of the force of the motives. The motives which induce to the execution of Treaties are always of a very forcible nature, and generally altogether conclusive. When the question is, shall a thing be done, it having been agreed to be done by a Treaty, the national

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faith having been pledged to do it, will always, and with all persons, be a powerful reason for it; in almost every case the reason would be conclusive, but still there are cases in which it would not be conclusive; and when a case occurs, each individual must judge for himself whether it is of that description or not.

Much of the alarm, he said, which gentlemen had felt, many of the mistakes into which they had fallen, arose from their forgetting the distinction between making a contract and executing it. The first belonged to the Treaty-making power, the second to the Legislative; but they had been confounded together, and gentlemen had imagined that, because the power of making national stipulations was asserted to belong, without restriction, to the PRESIDENT and Senate, the power of doing the things stipulated was also claimed; but these powers were as distinct as the act of giving a bond and the act of paying it. Suppose, said he, I give a man a power of attorney to make a contract in my name, will he have the power to take my property and deliver it in execution of the contract? Surely not. The contract must be fulfilled by me. The difference between me and a community is, that the laws will compel me to fulfil the contract; will judge for me, and take away my free agency; whereas the community has no superior by whom it can be compelled, but must judge for itself, and therefore remains a free agent, impelled only by the motives which exist for doing or withholding the act.

As to examples drawn from other Governments, Mr. H. said, he would admit it to be a fair mode of reasoning, though by no means conclusive. As far as it could be conclusive, it was perfectly fair to draw examples from Governments, which, though very different from our own, were yet in some particulars analogous. The British Government, he said, which had been resorted to for examples, was indeed widely different from ours, and he most heartily joined the honorable member from Virginia [Mr. GILES] in his hopes that it might never become less so. There were, however, some points of similarity, and the examples he would allow to have weight as far as they apply.

What, then, do these examples prove? That the British House of Commons have ever exercised or ever claimed a right to interfere in making Treaties; have ever pretended that a Treaty was not valid; that it was only an inchoate thing, to use the expression of the honorable member from Pennsylvania, [Mr. GALLATIN,] till they had given their sanction? That it was not a Treaty, though ratified by the King, till they had passed upon it? No such thing. They prove that the House of Commons claim the right, and that alone, of concurring in laws to carry the Treaty into effect. In deliberating upon this question, they regard it, as we contend this House ought to do, as a Treaty binding the national faith, and this consideration is always conclusive with them to pass the necessary laws. Always, said he, for no contrary instance can be produced, and he challenged gentlemen to produce one; their zeal

and industry would bring it to their knowledge if such a one did exist, and he challenged them to produce one in which the British Parliament has refused to execute a Treaty, their consent to which was not made a condition in the Treaty itself. The Treaty of Utrecht is produced as an instance. But that proves nothing. The Treaty of Utrecht contained two commercial articles, and it was a condition expressed in the Treaty itself that those articles should become parts of it, should be binding, when the British Parliament should pass laws in conformity to them. The House of Commons refused to pass these laws, in which they exercised a right derived to them, not from the Constitution, but from the Treaty itself, which had made their consent to the condition on which it should become obligatory. Such conditions, indeed, he said, were not unusual in British Treaties of Commerce. There was a similar one in the Commercial Treaty with Spain, concluded at Utrecht about the same time, and in the Treaty concluded with France in 1786. But he again challenged gentlemen to produce an instance in which the British Parliament had refused to pass laws in aid of a Treaty completely and unconditionally ratified. And if they had refused, still it would prove nothing in favor of the position which gentlemen contend for. It would prove that the Parliament might refuse to execute a Treaty, which nobody denied; but not that the consent of the House of Commons was necessary in making a Treaty. We all admitted here that Congress may refuse to execute a Treaty, but we contend that it has nothing to do with making the Treaty. Thus, in the case cited from the British Parliament by a gentleman from Pennsylvania, [Mr. SWANWICK,] in the case of the Treaty lately made with this country, the same distinction was manifest. The King, in his Speech, tells the Commons that, as soon as ratifications were exchanged, he would lay the Treaty before them. For what purpose? That they might ratify it? That they might consider whether it should be a Treaty or not? By no means; but that they might consider of the propriety of carrying it into effect. It was then a Treaty without their assistance; the compact was completely made, and binding on the nation, and they were called upon to execute it.

When, therefore, an honorable member from New Hampshire, [Mr. SMITH,] asked if the concurrence of this House is necessary in making Treaties, what is the paper now lying on the table, and purporting to be a Treaty with Great Britain, with Algiers, with the Indian tribes? It was no answer to say they were the same things as Treaties laid before the House of Commons in Great Britain, and not confirmed by law; for Treaties laid before the House of Commons are Treaties, complete as such, before the House acts upon them. The compact is completely made; but it is the business of Parliament to carry it into execution.

Vattel, indeed, had contradicted this doctrine, with respect to Treaties of subsidy, but in this as in some other instances, he had showed himself to possess less knowledge than reputation. He had

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said that the King of Great Britain could not make Treaties of subsidy without the concurrence of Parliament; and the reason he assigned for this opinion was, that the King could raise no money without the consent of Parliament. Here he forgot the distinction between raising money and stipulating to pay it—between making the contract and executing it; and because the King could not do one, he therefore inferred he could not do the other—an inference contrary to constant experience. Treaties of subsidy, Mr. H. said, were very frequent in Britain. Several had lately been made, and he instanced those with Sardinia, Prussia, and some of the German Powers. Were these Treaties laid before Parliament for their sanction? No. Parliament was indeed called on for money; it was made an item in the estimate of expenses for the year, and in that shape voted by the committee of supply. Mr. Fox, indeed, and his friends, once moved to strike out this item, and there was no doubt that Parliament might have done so, and refused the money. But what would that have amounted to? A breach of the Treaty; not a proof that it did not become a Treaty till Parliament concurred in it.

The Barrier Treaty between Holland and England, in 1709, had been cited on this subject. It had been adduced to show two things: First, that Treaties were not complete in England till agreed to by the House of Commons, and that the House could destroy a Treaty. This instance, he said, was peculiarly unfortunate for those who adduced it. Had they attended a little more particularly to the history of that transaction, they would have found in it a complete refutation of both their positions. The Barrier Treaty was made in October 1709, and it stipulated that England and Holland should continue the war in which they were engaged against France, till they had attained a certain object. The war was carried on for two years under this Treaty. It had its full effect all that time. A change in the Ministry then took place. The Whig party, which acted under the Duke of Marlborough was turned out, the Tories gained the ascendant in the House of Commons; their leaders, Lord Bolingbroke and the Earl of Oxford, got possession of the Ministry, and being resolved to stigmatize and destroy their opponents and predecessors, who had made the Treaty, they chose that as a proper engine by which to demolish them. A vote of censure was passed on the Treaty. It was resolved that Lord Townsend, in making it, had exceeded his instructions, and that it was ruinous and disgraceful to England. What happened after all this? The war went on according to the Treaty; that very Parliament granted the supplies, and it continued in full operation till two years afterwards, when it was done away by the Treaty of Utrecht, to which Holland was a party. Here it appeared that the Treaty was in full operation two years before the resolutions for censuring it were passed, and continued in operation some years after them; and yet it had been said that these resolutions prevented the effect of the Barrier Treaty; and that Treaty had been cited to prove that, by the British Constitu-

tion, Treaties were incomplete till concurred in by the House of Commons.

A further use made of this Barrier Treaty was to prove that the House of Commons have a right to call for papers respecting the negotiation of Treaties. It was no way wonderful, he said, that this call was made, and that it was obeyed. The new Ministry, who had possession of these papers, and were desirous of making it an engine for destroying its authors, were themselves at the head of the House of Commons, and occasioned the call to be made. They very readily obeyed it, as might have been expected.

It was worthy of remark, he said, that these very ministers, who procured a vote of censure on the Barrier Treaty, banished its authors, and altered it by the Treaty of Utrecht, were themselves, the instant the breath was out of the Queen's body, by whose confidence they had been supported, not only driven from their places for making the Treaty of Utrecht, but banished, attainted, and their estates confiscated; and this by that very House of Commons which had lately assisted them in inflicting similar calamities on the opposite party. This might show us how much system and consistency were to be found in the British House of Commons, and how much respect was due to precedents drawn from their proceedings. Indeed, he said, there were many reasons why these precedents should have little weight with us. Every body knew the history of the British Constitution. It had been a constant subject of contention, a continual struggle for almost seven hundred years, between the different departments. This struggle ended in a conviction on the part of the monarch that he could not govern to his mind without possessing a complete command over the House of Commons; and for the last one hundred years a system had been pursued which had fully produced that effect. The House of Commons had now notoriously become an implement in the hands of the Crown; the instrument by which the King and his Ministers effected their purposes. The mandates of a British Minister were as irresistible in the House of Commons, as those of a Grand Vizier in the Turkish Divan; and the instant they ceased to be so, the Minister must go out, and give place to some other who can govern the House. The commands of the King are absolute; and though he chooses to convey them in the style of politeness and urbanity so properly recommended by the honorable member from New York, they are not the less absolute. It did not seem very just reasoning to conclude, that because the British King is in the habit of directing the House of Commons to do certain things which he wants done, the House had a right to do the same thing in respect to our Government.

The second position which the honorable member from Pennsylvania [Mr. GALLATIN] had attempted to establish was, that Treaties cannot repeal existing laws. He would observe, in the first place, that this question was perfectly unnecessary to the present discussion; because the British Treaty, which had given rise to the dis-

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cussion was repugnant to no law of the United States; this, he said, he undertook to prove when the Treaty should come under consideration, and to prove it to the satisfaction of the two honorable members themselves [Mr. BALDWIN and Mr. GALLATIN] who had asserted the contrary. Though they had somehow fallen into a misapprehension on this subject, he had such confidence in their candor as to believe they would readily admit their own mistake when the truth should be placed before their eyes. At present it would be improper to go into that investigation. In the second place, it ought to be remarked that this was purely a judicial question. The business of the Legislature was to make laws; of the PRESIDENT and Senate to make Treaties; but it belonged to the Judicial power to decide about the effect of laws and Treaties after they should be made. He had great doubts, he said, about this question; and should always think it proper to remove any laws out of the way of a Treaty by a formal repeal; but still, if a case should occur in which a Treaty stood opposed to a law, the Courts of Justice must decide which would supersede the other. Notwithstanding, however, he did not think it necessary to decide this question here, or that such a decision, if made, could or ought to have any influence on the Judicial determination of it, yet as the honorable member had made many observations to support the negative of the question, he would not pass them by without remark.

To prove that Treaties could not repeal laws, the honorable member had adverted first to the Commercial Treaty with France, and secondly to the Treaty of Peace with Great Britain. The Commercial Treaty with France he had said, contained one stipulation repugnant to the laws of the States; it being provided by the 11th article, that the subjects of France, though aliens, might inherit lands, or receive them by devise or donation. Two of the States, the honorable member had told us, Maryland and New Jersey, had passed laws conformably to this article: Maryland in part, and New Jersey completely. But what, said Mr. H., does this prove? It proves that those two States, and some others, for others also passed laws on the subject, thought it proper to take away all doubt on the point by express acts. But does this prove that the Treaty would not have been effectual without these laws? By no means; for many of the States passed no such laws, and yet the Treaty had its operation; it superseded and repealed the laws which stood opposed to it. The honorable gentleman had cited three instances in which the Treaty of Peace was opposed to laws of the States. One was the stipulation that there should be no impediment to the recovering of debts; another, that there should be no future confiscations. As to the first, he had asserted, that it was not in fact a repeal of the laws prohibiting the recovery of debts, because those laws were contrary to the Law of Nations, which directs that, after a war is over, debts contracted before it should be recovered: those laws, therefore, were repealed and destroyed by the Law of Nations, and not by the Treaty. But where, said Mr. H.,

did the honorable gentleman learn that the Law of Nations could control or repeal the municipal laws of States? I wish to know where he found this principle—a principle which I deny, and which is recognised by no writer on the subject? The Law of Nations can produce no such effect. The municipal laws within their sphere are supreme; and those laws of the States were repealed, not by the Law of Nations, but by the Treaty.

As to confiscation, the honorable member had taken much pains to show that no laws on that subject were repealed by the Treaty of Peace; and his manner of proving this was curious. Confiscation laws were in force in most of the States when the Treaty was signed, and in most of them many confiscations had actually taken place under those laws. The British were very desirous not only to prevent future confiscations, but also to obtain a restoration of property previously confiscated. To the first our Commissioners readily consented, and an article was inserted to that effect, which completely repealed the laws—completely, and that without Legislative aid, prevented future confiscations. The second they positively refused, alleging, and alleging truly, that they had no such power; that Congress had no such power. No power to do what? To repeal the confiscation laws? No; that they actually did; for a law is completely repealed when its operation and future effect is destroyed; but no power to divest rights acquired under a law; no power to alter what was already done: and here, he said, lay the fallacy of the honorable member's reasoning, in overlooking the distinction between repealing a law and divesting rights acquired under it before the repeal. These two operations were altogether distinct; and a repeal never did and never could alter what had been done before it. Suppose a law be passed imposing a penalty; and that the penalty is incurred, sued for, and recovered; and then the law repealed. Can the person from whom this penalty has been exacted recover it back again in consequence of the repeal? Surely not. Suppose a land office be opened by a law, and lands granted, and then the law to be repealed; will this repeal destroy the grants? Surely not. When, therefore, the Commissioners declared that they had no power to stipulate for the restoration of confiscated property, they declared what was strictly true, that they had no power, or Congress either, to destroy rights acquired under existing laws; but did it follow from hence, he asked, that they had no power by a Treaty to repeal those laws? So far from it, that they actually did repeal them. The sixth article stipulated that there should be no future confiscations, and confiscations ceased.

This doctrine, he said, of the repeal of laws by Treaties, had been ably argued, and very fully established on a very interesting occasion, by a former Secretary of State, [Mr. JEFFERSON,] whose reputation for talents was high and universal. In his correspondence with the British Minister, respecting the inexecution of the Treaty of Peace, he had expressly declared, "that the repeal of laws contrary to the Treaty, in the different

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States, was all supererogation; it resulting, from the instrument of Confederation, that Treaties made by Congress conformably to it, were superior to the laws of the States." And he cited the opinions in writing of many eminent lawyers in the various States, of an honorable gentleman from Virginia, [Mr. MONROE,] who now holds a very high post under the Government, of a gentleman equally respectable and distinguished from Pennsylvania, and of a very eminent lawyer from New York, to prove that in all the States the Treaty was considered as repealing all laws which stood opposed to it. He cited also the acts and decisions of Courts to the same point; all of which conclusively established the fact that the Treaty of Peace had actually repealed the laws of the States wherever they came into opposition.

And yet, Mr. H. said, he doubted how far this principle was a just one. The authorities in support of it were extremely strong, and certainly would not be easily set aside; but yet he doubted. The honorable member from Pennsylvania, in his enumeration of instances in which the Treaty of Peace had repealed the laws of the States, had forgotten or overlooked the most important one; that by which prosecutions were prevented for acts done in the war. The sixth article provides, "that there shall be no future confiscations made, nor any prosecution commenced against any person or persons for or by reason of the part which he or they may have taken in the present war; and that no person shall suffer on that account, any future loss or damage, either in his person, liberty, or property; and that those who may lie in confinement on such charges, at the time of the ratification of the Treaty in America, shall be immediately set at liberty, and the prosecution so commenced be discontinued." There were, he said, in all the States, laws subjecting persons to penalties of the highest nature for the part they had taken in the war. All these laws were instantly repealed by the Treaty, and all persons prosecuted under them immediately discharged. In the State to which he belonged there was an act called the Sedition Act, which made it treason to take up arms in behalf of the enemy. Under this act, above thirty persons were under prosecution in one Court, when the Treaty was promulgated, and they were all immediately discharged. Here the Treaty had repealed laws; had arrested their progress in their most essential and important operation, the punishment of offences.

This, he said, was not the last nor the strongest instance. The Consular Convention with France was more recent, and, if possible, more conclusive. The 29th article of the Treaty of Commerce with France had stipulated that a convention should be made relative to consuls. This convention was negotiated under the Confederation, but concluded and ratified under the present Government. It was promulgated by the PRESIDENT, in a Proclamation not only of the same tenor, but in the same words, in which the late Treaties had been announced. This convention invades the laws and the sovereignty of the country in many

essential attributes. It establishes, by one article, a jurisdiction within our country, independent of our Courts; it, by another, secures the person of the consul from arrests, military duty, personal taxes, and personal service, and their papers from attachment. By a third, it gives them complete and conclusive jurisdiction over the vessels of their nation, within our ports, and in the body of our countries. By a fourth, they are enabled to arrest persons in the country, under certain circumstances, confine them, and finally send them out of the country; and the twelfth article expressly takes away the jurisdiction of our Courts in enforcing the payment of seamen's wages, and transfers it to the consuls. Yet this convention, thus contravening so many laws, thus interfering with our sovereignty in so many particulars, went into complete effect, and continues so, without any law of a State or the United States to repeal those which stood in its way. It operated a repeal without the assistance of the Legislature. And yet he had doubts, he said, about the soundness of this doctrine, that a Treaty can repeal laws. These doubts, however, would not prevail, this doctrine recognised by all our Courts of Justice, constantly and at all times acted upon by our Government, defended by our ablest statesmen and lawyers, our most distinguished patriots, would not be set aside without much more forcible reasons than those advanced against it by the honorable member from Pennsylvania.

The result, he said, of the ideas which he had submitted to the Committee, if they were just, was that the Treaty-making and Legislative powers were entirely distinct and independent. That they moved in different orbits, where each was supreme and uncontrolled, except by its own nature and the Constitution. That the PRESIDENT and Senate under the Treaty-making power could make all sorts of compacts. That Congress, under the Legislative power, could make all laws. That these compacts, however, could never operate as laws, could never produce a Legislative effect, any more than a law could produce the effect of a Treaty. That the Treaty-making power therefore never could invade the Legislative, never could interfere with, or be restricted by it. That Treaties when made and complete, as such, were no more than Executory compacts, depending for their execution upon the aid of the Legislature, in giving which aid it must, from the nature of things, be a free agent. Herein, he said, consisted the real security against the abuse of the Treaty-making power; that it could never act without Legislative aid. While that House hold the purse-strings of the people, while no Treaty could produce its effects without a law, and that the concurrence of that House was necessary in passing the law, there could be no real danger. Great, indeed, was the responsibility which those must take on themselves, who should refuse in that House to execute a Treaty. Weighty, indeed, must be the reasons which could induce the House to risk all the consequences which must be expected to result from such a refusal. Few, he believed, would be found hardy enough

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to risk them in ordinary cases. In some cases they must be risked, and to decide what those cases are, is an object of the soundest discretion. The subject, he said, was capable of being placed in many other interesting points of view, which the late hour of the day and the great length of the discussion then rendered improper. Some things had been said which he was sorry to hear; which tended not to enlighten, but to irritate. He would not now remark on them, because he wished and hoped that they might be forgotten, that they might pass into oblivion, and leave the field open for truth and good sense. All, he hoped, would inquire with care, and act for the public good from the best of their judgment. In that case, their conclusions would not be far wrong; and if they should, he hoped and trusted, that there was strength in the Constitution to correct the error.

Mr. H. having sat down, the question was taken upon Mr. LIVINGSTON's resolution, which is in the words following:

"Resolved, That the President of the United States be requested to lay before this House a copy of the instructions to the Minister of the United States, who negotiated the Treaty with the King of Great Britain, communicated by his Message of the first of March, together with the correspondence and other documents relative to the said Treaty; excepting such of said papers as any existing negotiation may render improper to be disclosed."

The division on this resolution, in Committee of the Whole, was—for the resolution 61, against it 88—majority 28.

The resolution was then taken up in the House, and the yeas and nays being called upon it, were taken, and stood yeas 62, nays 87, as follows:

YEAS.—Theodorus Bailey, David Bard, Abraham Baldwin, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clapton, Isaac Coles, Henry Dearborn, George Dent, Gabriel Duval, Samuel Earle, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, Christopher Greenup, Wm. B. Grove, Wade Hampton, George Hancock, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, James Holland, George Jackson, Aaron Kitchell, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, Francis Preston, John Richards, Robt. Rutherford, John S. Sherburne, Israel Smith, Samuel Smith, Thomas Sprigg, John Swanwick, Absalom Tatom, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Richard Winn.

NAYS.—Benjamin Bourne, Theophilus Bradbury, Daniel Buck, Joshua Coit, Wm. Cooper, Abiel Foster, Dwight Foster, Nathaniel Freeman, jr., Ezekiel Gilbert, Nicholas Gilman, Henry Glenn, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, James Hillhouse, Wm. Hindman, John Wilkes Kittera, Samuel Lyman, Francis Malbone, William Vans Murray, John Reed, Theodore Sedgwick, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith,

Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

RECAPITULATION.—Yeas 62, nays 37, absent 5—104—the Speaker 1—whole number of Representatives 105.

Mr. DAYTON, the Speaker, in Committee of the Whole, voted against the resolution.

MARCH 25.—The committee (MESSRS. LIVINGSTON and GALLATIN) appointed to present the resolution agreed to yesterday to the PRESIDENT, reported, that the PRESIDENT answered, that he would take the resolution into consideration.

MARCH 30.—The following Message was received from the PRESIDENT in answer to the resolution of the House:

Gentlemen of the House of Representatives:

With the utmost attention I have considered your resolution of the 24th instant, requesting me to lay before your House a copy of the instructions to the Minister of the United States, who negotiated the Treaty with the King of Great Britain, together with the correspondence and other documents relative to that Treaty, excepting such of the said papers as any existing negotiation may render improper to be disclosed.

In deliberating upon this subject, it was impossible for me to lose sight of the principle which some have avowed in its discussion, or to avoid extending my views to the consequences which must flow from the admission of that principle.

I trust that no part of my conduct has ever indicated a disposition to withhold any information which the Constitution has enjoined upon the President, as a duty, to give, or which could be required of him by either House of Congress as a right; and, with truth, I affirm, that it has been, as it will continue to be, while I have the honor to preside in the Government, my constant endeavor to harmonize with the other branches thereof, so far as the trust delegated to me by the people of the United States, and my sense of the obligation it imposes, to "preserve, protect, and defend the Constitution," will permit.

The nature of foreign negotiations requires caution; and their success must often depend on secrecy; and even, when brought to a conclusion, a full disclosure of all the measures, demands, or eventual concessions which may have been proposed or contemplated, would be extremely impolitic; for this might have a pernicious influence on future negotiations; or produce immediate inconveniences, perhaps danger and mischief, in relation to other powers. The necessity of such caution and secrecy was one cogent reason for vesting the power of making Treaties in the President with the advice and consent of the Senate; the principle on which the body was formed confining it to a small number of members. To admit, then, a right in the House of Representatives to demand, and to have, as a matter of course, all the papers respecting a negotiation with a foreign Power, would be to establish a dangerous precedent.

It does not occur that the inspection of the papers asked for can be relative to any purpose under the cognizance of the House of Representatives, except that of an impeachment; which the resolution has not expressed. I repeat, that I have no disposition to withhold any information which the duty of my station will permit, or the public good shall require, to be disclosed;

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and, in fact, all the papers affecting the negotiation with Great Britain were laid before the Senate, when the Treaty itself was communicated for their consideration and advice.

The course which the debate has taken on the resolution of the House, leads to some observations on the mode of making Treaties under the Constitution of the United States.

Having been a member of the General Convention, and knowing the principles on which the Constitution was formed, I have ever entertained but one opinion on this subject, and from the first establishment of the Government to this moment, my conduct has exemplified that opinion, that the power of making Treaties is exclusively vested in the President, by and with the advice and consent of the Senate, provided two-thirds of the Senators present concur; and that every Treaty so made, and promulgated, thenceforward becomes the law of the land. It is thus that the Treaty-making power has been understood by foreign nations, and in all the Treaties made with them, *we* have declared, and *they* have believed, that when ratified by the President, with the advice and consent of the Senate, they become obligatory. In this construction of the Constitution every House of Representatives has heretofore acquiesced, and until the present time not a doubt or suspicion has appeared to my knowledge that this construction was not the true one. Nay, they have more than acquiesced; for until now, without controverting the obligation of such Treaties, they have made all the requisite provisions for carrying them into effect.

There is also reason to believe that this construction agrees with the opinions entertained by the State Conventions, when they were deliberating on the Constitution, especially by those who objected to it, because there was not required in Commercial Treaties the consent of two-thirds of the whole number of the members of the Senate, instead of two-thirds of the Senators present, and because, in Treaties respecting Territorial and certain other rights and claims, the concurrence of three-fourths of the whole number of the members of both Houses respectively, was not made necessary.

It is a fact, declared by the General Convention, and universally understood, that the Constitution of the United States was the result of a spirit of amity and mutual concession. And it is well known that, under this influence, the smaller States were admitted to an equal representation in the Senate, with the larger States; and that this branch of the Government was invested with great powers; for, on the equal participation of those powers, the sovereignty and political safety of the smaller States were deemed essentially to depend.

If other proofs than these, and the plain letter of the Constitution itself, be necessary to ascertain the point under consideration, they may be found in the Journals of the General Convention, which I have deposited in the office of the Department of State. In those Journals it will appear, that a proposition was made, "that no Treaty should be binding on the United States which was not ratified by a law," and that the proposition was explicitly rejected.

As, therefore, it is perfectly clear to my understanding, that the assent of the House of Representatives is not necessary to the validity of a Treaty; as the Treaty with Great Britain exhibits in itself all the objects requiring Legislative provision, and on these the papers called for can throw no light; and as it is essential to the due administration of the Government, that the boundaries fixed by the Constitution between the differ-

ent departments should be preserved—a just regard to the Constitution and to the duty of my office, under all the circumstances of this case, forbid a compliance with your request.

G. WASHINGTON.

UNITED STATES, *March 30, 1796.*

MARCH 31.—Mr. BLOUNT moved that the Message be referred to a Committee of the Whole on the state of the Union.

Mr. GILES was of opinion it had better be referred to a Committee of the Whole simply.

Mr. SENGWICK saw no reason for such a reference. He wished gentlemen would point out the object of the motion.

Mr. THATCHER saw no good to be obtained by referring it. The House had requested the PRESIDENT to lay certain papers before them; the PRESIDENT answers, that he has none for them. Why a reference? The House asked a question; the PRESIDENT answered in the negative—for what purpose refer the answer? what would be gained by it?

Mr. BLOUNT observed, that the PRESIDENT'S Message stands upon the Journals of the House; he wished, also, that the House should state upon their Journals the reasons which influenced them to make the request. Perhaps, also, he said, a consideration of the Message might lead to some further measure proper to be adopted. He was indifferent whether it was referred to a Committee of the Whole on the State of the Union, or a Committee of the Whole, simply.

Mr. NICHOLAS remarked that it was prejudging the question to say that nothing could arise out of a consideration of the Message. The present is a crisis important in the affairs of the country, independently of the Treaty. If the Message was a proper subject of discussion, it was proper to refer it to a Committee of the Whole. He did not think a reference to the Committee of the Whole on the state of the Union proper; because the Message points to a subject differing from that referred to that Committee. The investigation at any rate could produce nothing wrong.

Mr. GILES said, that the member from North Carolina [Mr. BLOUNT] had explained the object he had in view by a reference. He preferred a reference to a Committee of the Whole independently; because the Message itself would furnish matter enough for consideration by itself. He should object to its being referred to the Committee of the Whole, who are to take into consideration the British Treaty; because he never would consent to act upon that subject till the papers deemed material to the investigation were laid upon the table. He hoped the reference to a Committee of the Whole, generally, would be agreed to. It certainly would be proper for the House to state their reasons for the call. This call had given rise to a great Constitutional question; the PRESIDENT had stated the reasons of his opinion; if the House were not convinced by them (and he owned that, for one, he was not) then it would be proper that they should present to the public their reasons for differing with him.

Mr. THATCHER argued, that the reasons of the

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House were contained in the speeches of members in favor of the motion; the papers had been filled with them, and a pamphlet was going to be published containing them all. If this was not sufficient, the gentlemen had better direct the pamphlet to be copied on the Journals.

Mr. WILLIAMS considered this a new question, and wished for time to consider. The PRESIDENT'S Message is only an answer to a request of the House. It does not call for anything to be done, then why a reference? Such a reference would be unprecedented. Entering the reasons of the House on the Journals could produce no good. The House could not call for the papers more than they had done. He reminded the House that three weeks had already been spent in agreeing to the call; if they agreed to the present motion, they would spend as much more in agreeing to the reasons. The PRESIDENT, in his Message, had mentioned the proceedings of the grand Convention: this was a new topic to him not started in debate; when the Treaty is before the House, perhaps they might wish to have the Message before them on that ground. He should vote for the reference if gentlemen could assign (what they had not yet done) a proper motive for it.

Mr. SEDGWICK urged that the reasons of the majority would make a large book. Were the Committee of the Whole to turn authors and write a dissertation on part of the Constitution? The people did not send their Representatives here for any such purpose, and he hoped it would not be persisted in. If the reasons of the House were to be drafted, he ventured to predict, that they would reach the end of their political career before the discussion, that must necessarily arise upon them, would be brought to a close. Such a measure would be unprecedented, and lead to a great waste of time, and continually defeat the real objects of their mission. The session had been long enough already, and it must be lengthened to accomplish the necessary business of it. If the gentlemen would write books, he was confident every body would buy them; but he could not see the propriety of the present motion.

Mr. BLOUNT observed, that the PRESIDENT refers, in his Message, to the debate in the House, and insinuates that the House contend for a right not given them by the Constitution. This was the first instance of any importance of a difference between the House of Representatives and the Executive respecting a great Constitutional point; it was then proper to make such a disposal of the Message as to enable the House to state their reasons in support of their opinion, that the people may be rightly informed, that they may see the House is attempting no encroachment.

Mr. HEATH hoped the Message would not be passed over in silence. The PRESIDENT surely is not infallible. A very important Constitutional question is involved; he hoped the reference would be agreed to.

Mr. SITGREAVES was against the motion. The House have made a demand on the PRESIDENT; the PRESIDENT refused it; this must naturally put

an end to the correspondence on this subject. The difference of sentiment between the two branches is not sufficient reason for converting the Journals of the House into a volume of debates. If the majority are to place their reasons, the minority cannot be denied the same indulgence; then for a rejoinder, rebutters, surrebutters, without end. From the practice of the House, in a case analogous, a rule of conduct for the present case may be drawn. When a bill is sent to the PRESIDENT, if he dislikes it, he negatives and sends it to the House with his reasons. Those reasons are put on the Journals, as directed by the Constitution; but it contains nothing to direct or authorize the majority to register their reasons, and thus to enter into a controversy. The returned bill is put to vote, and if two-thirds of each House agree to it, it passes; if not, it falls to the ground, but no reasons are entered on the part of the House.

Mr. GALLATIN said he did not expect the motion for a reference would have met with any opposition. Some members are of opinion, that the Message should be passed over in silence; others had resolved to ground some act upon it. There exists a difference, then, on this first point. The natural course is, then, a reference to a Committee of the Whole, to determine whether the House would act further on the business.

In Committee of the Whole a discussion could be had concerning the propriety of acting further on the Message. When the House made the call for papers, they did not give their reasons in the resolution; it was but a bare request. The PRESIDENT decided he could not comply with it. If he had stopped here, perhaps there might be grounds for ending the correspondence here; but he was not satisfied with this, but has entered into his motives for refusing. Indeed, he had gone further; he had adverted to the debates had in the House. He may be mistaken as to the motives he ascribes to the House. In this delicate situation it is certainly right to notice the Message, and to explain the real motives of the House, in support of the motion. If it is a novelty to reply to an Answer of the PRESIDENT's it was equally a novelty, also, in making an Answer to notice a debate in support of a resolution. It is necessary to refer the Message to a Committee of the Whole, to determine how to act. He declared his mind was not made up upon this point, and therefore he wished it referred to a Committee of the Whole. Not, however, to the Committee on the state of the Union, because there exists no connexion with the subject referred to that Committee. Referring to a Committee of the Whole is deciding nothing, but only determining to examine; it could not decide on the propriety of acting.

Mr. COOPER said, that the further the gentlemen travelled a wrong road, the further they would get out of the true course, and the more difficult it would be to return.

Mr. HARPER observed, that this was not the first attempt to get the House to do something, to commit them to do something further. A motion

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is now made to refer the Message to a Committee of the Whole, and the House are told, that if the motion be carried, it is nothing, it is deciding nothing, but will only lead to an inquiry whether the House ought to act. He insisted that such a reference would in fact be determining that they would act, and then, in Committee, they would determine how, and in that Committee, he said they would be asked, why did the House resolve itself into a Committee of the Whole if not to act? So, when the Indian Treaty was ratified, a motion was made to request the PRESIDENT to lay it before the House. When it was laid before them, it was then contended that the House had a right to interfere in the Treaty, or why ask for it? It could not be supposed, that gentlemen of any understanding could be imposed upon by such a flimsy sophistry. It was now the proper time, and the House the proper place, he contended, to settle the principle whether the House would sanction any further proceedings on the Message. What reason could be adduced for acting? It is said that the PRESIDENT has not only refused the papers, but given his reasons for the refusal, and that his reference to the debate, and the statement he made about the motives of the House, might be found incorrect; that the PRESIDENT may have attributed to the majority motives they were not willing to avow. The motives had been avowed by the gentleman who led the business from Pennsylvania.

Mr. HARPER was called to order. He concluded by declaring that he would vote against the reference.

Mr. VARNUM observed, that a great Constitutional question was to be decided; two branches of the Government differed, and they had joined issue. The PRESIDENT had given the reasons of his opinion: it was right, also, that the people should know the sense of the House. Shall the House take no further measures on the subject, and receive the Answer of the PRESIDENT as obligatory with regard to the question? He believed every member of the House has, as well as the PRESIDENT, the right to avow his principles, and to judge of the import of the different parts of the Constitution. The House he conceived under an obligation to consider the question: if they found upon consideration reason to recede from their opinions, he hoped they would. He wished the subject examined with temper and candor.

Mr. KITTENDGE chiefly dwelt on the length of time, which, if the motion was agreed to, would be consumed in the business. He also touched on the impropriety of entering into a disquisition on the merits of this question on the Journals.

Mr. CRABBE.—Mr. Speaker, I hope the Message received from the PRESIDENT, in answer to the resolution of this House, calling for certain papers relative to the British Treaty, will be referred to a Committee of the Whole House. My reasons for this wish are, because the PRESIDENT has refused the papers on Constitutional principles, and has thought proper to go into a detail of the reasons which led to a formation of his opinion, therefore I apprehend it proper to make the refer-

ence, in order, that if the reasons urged by the PRESIDENT are such as to convince this House that he is right as to the Constitutional question, that they may have an opportunity to acknowledge it, that it may be so known and understood abroad, inasmuch as the contrary opinion has been promulgated; and again, I wish the reference, that this House may, with respect and calm deliberation, consider the PRESIDENT's Message, and the reasons on which his refusal to send the papers is grounded, that if those reasons are not such as to convince or change the opinion of this House, they, in that case, may have an opportunity so to express themselves, and to introduce resolutions to that effect, that the opinion of this House, on this great Constitutional question, after the receipt and consideration of the PRESIDENT's Message, may be fully known, clearly understood, and stamped on your Journals. I think this a necessary measure, inasmuch as sundry Treaties lately negotiated are now before this House, and by a declaratory resolution, as before stated, this House may save the Constitutional principle, and feel themselves at perfect liberty to pass the necessary laws to carry these Treaties into complete effect, without conveying the implication, that they think they are bound so to do, and have not a Constitutional right to reject and refuse, when even they shall judge the general prosperity of the Union, and the interest of their constituents, may be promoted by that refusal.

Mr. GILES said, he had not expected the subject would have been treated with ridicule, and that members in reply should advise others to go and write pamphlets. The motives of a branch of Government must necessarily differ from the motives of individuals expressed in their speeches. A majority of the House, when their sentiments are collected, speak the sense of the House. He adverted to the practice of the House when the PRESIDENT returns a bill, which had been mentioned by the opposers of the motion, and observed, that in cases of that kind the Message of the PRESIDENT was acted upon. He observed, on the importance of the subject, and insisted on the propriety of the House expressing their reasons for their vote. They owe it to themselves, to the United States, to the whole world, to exhibit their reasons for what the PRESIDENT has declared to be an unconstitutional call. For this purpose, the Message should be referred to a Committee of the Whole, where a proper motion would be brought forward, and could be freely discussed. If it had been proposed to refer the Message to a select committee, to place the business into a few hands, there might have been an objection, but a reference to a Committee of the Whole he considered quite unexceptionable.

Mr. N. SMITH said the present was a most singular motion; and, after noticing the several reasons which had been given for the measure, thought none of them had any weight. He said the referring of the Message could only have one effect; it would engage three weeks more of their time; and yet, gentlemen who had been very economical with respect to time, on the late great

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Constitutional point, by calling for the question from day to day, now proposed to consume it in the way proposed. He should, however, now show that economy on account of time, which had been so much insisted upon on a former occasion.

Mr. THATCHER hoped the Committee would excuse his making a few remarks on the subject before them, as it seemed not to be understood. In the first place, he asked, what was the answer of the PRESIDENT? It was No, and nothing more. What, then, can be expected from referring this answer to a Committee of the Whole? It was not the answer which gentlemen wished to refer? but they say, the PRESIDENT was not contented with giving an answer, but had gone on to give the reasons on which his negative was predicated. Might they not, say they, prove the PRESIDENT to be wrong, and ought they not to give their reasons why they think him wrong? They, therefore, determine to enter into a forensic dispute with the PRESIDENT, in order that, though he had once said No, he might hereafter say Yes. Contrary to all former experience, he said, the majority, and not the minority, wished to enter a protest upon their Journals. In the English Parliament they frequently heard of a minority protesting, but he never heard of a majority doing so. But this majority want to enter their protest, in the form of a syllogism, in order to convince the world that the PRESIDENT had reasoned ill. But he thought the people of the United States would believe he reasoned tolerably well. Nor did he believe the gentleman from Pennsylvania would overturn in a week the reasoning of the PRESIDENT. But it had been said, politeness required that they should notice the PRESIDENT'S Message. He believed he would excuse the House on that head. He believed his mind was determined on the subject. If gentlemen were dissatisfied with the reasoning of the PRESIDENT, let them go individually to him and say, "you have given us a major and a minor, but you have drawn a wrong conclusion." But was it right that these arguments should be brought forward on that floor? for, if the majority sent their reasons to the PRESIDENT, instead of having a reply of two or three pages, they might have the next time ten or twelve, and the controversy would not end. Mr. T. was therefore opposed to the motion.

Mr. CLAIBORNE thought the motion a proper one; for, if they passed the present Message over in silence, they might as well come to a resolution, that whatever the PRESIDENT said should be law, and not to be examined.

Mr. W. SMITH did not think the present motion could have any other effect than to involve two different branches of the Government in an unpleasant dispute on a Constitutional question. If gentlemen wished to convince the PRESIDENT he was wrong, it would be better a committee should be appointed for a conference with him on the occasion. Gentlemen said they wished to enter their reasons upon the Journals for calling for papers; whereas, when they laid the resolution upon the table, and were called upon for those

reasons, they said they would see the papers first, and then they would say what use they meant to make of them. The PRESIDENT, said Mr. S., had acted in the way gentlemen said he ought to act. Did not gentlemen say the PRESIDENT would exercise his discretion with respect to sending the papers? and yet, now he had exercised his discretion, there seemed to be an inclination in gentlemen to enter on the Journals reasons to convince the world he was wrong. How did that House proceed when the PRESIDENT negatived one of their bills? His reasons were entered on the Journals, and they proceeded to reconsider the subject. But did they enter on the Journals their reasons for passing the bill? No: they merely put the question, whether the bill should still pass, and were ruled by the event. He thought this an analogous case to the present. He saw nothing improper in the PRESIDENT'S having given his reasons for declining to send the papers requested. Had he not done so, but refused to have answered the request, without having given any reasons for it, he would have been charged with a want of respect to the House. He considered his compliance would have been a violation of the Constitution. Was that a reason why they should enter their reasons on the Journals? Surely not. Indeed, it appeared to him, that the discussion proposed would have no effect but to excite a misunderstanding between two branches of the Government, which might ultimately affect the peace of the country. He wished gentlemen to recollect the calmness with which that House received the negative of the PRESIDENT on a bill which respected the great principles of representation, which had passed both Houses. No attempt was made to go into a Committee of the Whole on the reasons for the negative. He hoped they should proceed with the same dignity on the present occasion.

Mr. FINDLEY said, it was customary in the Legislature of Pennsylvania to enter reasons for adopting measures upon their Journals. He had often known the sentiments of men long dead, brought forward there. It was not for themselves, but for posterity, that their reasons for calling for the papers in question should be entered upon the Journals along with the PRESIDENT'S refusal. It had been said, that majorities never entered their reasons on Journals, but minorities; but he said he had known both. These reasons, which would be thus entered, will be those of the House, and not of any individual.

The yeas and nays were now taken on the question of a reference of the PRESIDENT'S Message to a Committee of the Whole; and the motion was agreed to—yeas 55, nays 37, as follows:

YEAS.—Theodorus Bailey, David Bard, Abraham Baldwin, Lemuel Banton, Thomas Blount, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Isaac Coles, Jeremiah Crabb, Henry Dearborn, Samuel Earle, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Christopher Greenup, Andrew Gregg, William B. Grove, Wade Hampton, George Hancock, Carter B. Harrison, John

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Hathorn, Jonathan N. Havens, John Heath, James Holland, George Jackson, Aaron Kitchell, Matthew Locke, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patten, Francis Preston, Robert Rutherford, Israel Smith, Samuel Smith, Thomas Sprigg, John Swanwick, Absalom Tatum, Philip Van Cortlandt, Joseph B. Varnum, and Abraham Venable.

NAYS.—Benjamin Bourne, Theophilus Bradbury, Daniel Buck, Joshua Coit, William Cooper, George Deut, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, James Hillhouse, William Hindman, John Wilkes Kittredge, Samuel Lyman, Francis Malbone, William Vans Murray, John Reed, Theodore Sedgwick, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

The business was then made the order of the day for Wednesday next. An earlier day was proposed; but Wednesday was carried by the SPEAKER'S casting vote.

APRIL 1.—MR. KITCHELL said, as it appeared from the Message of the PRESIDENT, lately communicated to that House, that he had conceived the majority of that House, who passed the resolution to which that Message was an answer, had entertained opinions, which he himself, as one of that majority, wished to disavow, he proposed to submit two resolutions to the consideration of the House, which contained his sentiments upon the occasion, and which he should wish to be referred to the Committee of the Whole to whom was referred the said Message. They were referred, and are in substance, as follows:

Resolved, As the opinion of this House, that the Constitution has vested the power of making Treaties exclusively in the President and Senate; and that the House of Representatives do not claim an agency in making or ratifying them when made.

Resolved, As the opinion of this House, that when a Treaty is made, which requires a law or laws to be passed to carry it into effect, that, in such case, the House of Representatives have a Constitutional right to deliberate and determine the propriety or impropriety of passing such laws, and to act thereon as the public good shall require.

APRIL 6.—MR. BOURNE called for the order of the day, on the Message of the PRESIDENT, in answer to the resolution of that House, calling for certain papers relative to the Treaty lately concluded with Great Britain; when, just as the SPEAKER was about to put the question,

MR. N. SMITH rose to oppose the motion. He said he wished the House to go into a Committee of the Whole on the state of the Union. It appeared to him very necessary to go into a Committee of the Whole on that subject, and perfectly unnecessary to take up time in discussing the Message of the PRESIDENT. It was well known that the first of June was the time fixed for the British to give up the Western posts. It was also

well known, that many gentlemen in that House had declared that the Treaty lately concluded with Great Britain was not obligatory on the nation, was not obligatory on that House until it had received their sanction. If this opinion was just, he apprehended the British were not bound to give up the posts until that House had declared the Treaty binding. He was one of those who believed this opinion incorrect; he believed that House had no participating power in making Treaties; but there was no man who would say they had not the physical power to break the Treaty; and, after what had taken place in that House, may it not be conceived the British will refuse to give up the posts before the Treaty had been acted upon by them? If this was likely to be the case, they had no time to lose. It was then the 6th of April; it would take a month to transmit the ratification to the necessary place; and there would remain only twenty-three or twenty-four days for the business to pass through both Houses. This, it would be allowed, was a short period, and what, said he, may be the event of delaying the consideration so long, as that the British will not deliver up the posts at the time appointed? This could not be determined; but of this much he was certain, nations were judges in their own cause. As long as each nation kept exactly the line marked out, there could be no excuse for the breach in the other party; but, as soon as one or the other is guilty of a breach of contract, the consequences cannot be foreseen.

The two nations being judges in their own cause, it may be expected they will judge like parties. It was out of his power to say what might be the event; but it might involve the two nations in serious difficulties. He did not say the British would refuse to give up the posts; or, if they did, that difficulties would ensue; but it was in their power to prevent the possibility of mischief, provided they went immediately into the business. And why should they not do this? Of what importance was it to go into a Committee of the Whole, on the Message of the PRESIDENT? Was there included in it any proposition of great national advantage? Did they expect to get the papers by it? No. They expected to enter their reasons on the Journals for calling for the papers. Let them do what they pleased, no material national advantage was connected with the question; and if there was, it was not necessary to go into the consideration now. If they wanted to enter into a negotiation with the PRESIDENT on the subject, or declare the sense of the Constitution, they might do it the next session as well as this.

But the discussion of the Message at all, he thought, would be attended with serious consequences. They had been told, on a former occasion, that the sensibility of the country had been excited by the Treaty: that sensibility, he feared, had in some degree made its way into that House; and it was that, in his opinion, which had caused the present motion. He said this, because he could not discover any benefit to be derived from the proposed discussion: he believed it would only serve to add fuel to a flame which it would be well to extin-

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guish. He thought a business in which the public interest was concerned should first claim their attention; and, as there were very strong reasons for taking up the business relative to the state of the Union, he hoped they would negative the motion before them, and take up the other.

After a few observations from Mr. GILES, in favor of going into the consideration of the PRESIDENT'S Message; from Mr. SEDGWICK, in opposition to it, (in which he moved for the yeas and nays;) and a few conciliatory remarks from Mr. KITCHELL—the yeas and nays were taken, and stood—yeas 57, nays 36, as follow:

YEAS.—Theodoros Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Gabriel Christie, John Clopton, Isaac Coles, Jeremiah Crabb, Henry Dearborn, Samuel Earle, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Christopher Greenup, Andrew Gregg, William Barry Grove, Wade Hampton, George Hancock, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Daniel Hoister, James Holland, Aaron Kitchell, Edward Livingston, Matthew Locke, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, Francis Preston, John Richards, Robert Rutherford, Israel Smith, Samuel Smith, Thomas Sprigg, John Swanwick, Absalom Tatom, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Richard Winn.

NAYS.—Benjamin Bourne, Theophilus Bradbury, Daniel Buck, Joshua Coit, William Cooper, Geo. Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, Thomas Henderson, James Hithouse, William Hindman, Samuel Lyman, Francis Malone, William Vans Murray, John Reed, Theodore Sedgwick, John S. Sherburne, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, William Smith, Zephaniah Swift, Geo. Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

The House accordingly resolved itself into a Committee of the Whole on said Message.

Mr. BROWN brought forward the following resolutions:

“Resolved, That it being declared by the second section of the second article of the Constitution, ‘that the President shall have power, by and with the advice of the Senate to make Treaties, provided two-thirds of the Senate present concur,’ the House of Representatives do not claim any agency in making Treaties; but, that when a Treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress, it must depend, for its execution, as to such stipulations, on a law or laws to be passed by Congress. And it is the Constitutional right and duty of the House of Representatives, in all such cases, to deliberate on the expediency or in expediency of carrying such Treaty into effect, and to determine and act thereon, as, in their judgment, may be most conducive to the public good.

“Resolved, That it is not necessary to the propriety of any application from this House to the Executive, for information desired by them, and which may relate to any Constitutional functions of the House, that the

purpose for which such information may be wanted, or to which the same may be applied, should be stated in the application.”

Mr. HARPER, Mr. DAYTON, and Mr. KITCHELL, offered a few remarks with respect to the propriety of considering the resolutions now moved, or those laid upon the table, by Mr. KITCHELL, a few days ago. After which—

Mr. MADISON rose, and spoke as follows: When the Message was first proposed to be committed, the proposition had been treated by some gentlemen not only with levity but with ridicule. He persuaded himself that the subject would appear in a very different light to the Committee; and he hoped that it would be discussed on both sides without either levity, intemperance, or illiberality.

If there were any question which could make a serious appeal to the dispassionate judgment, it must be one which respected the meaning of the Constitution; and if any Constitutional question could make the appeal with peculiar solemnity, it must be in a case like the present, where two of the constituted authorities interpreted differently the extent of their respective powers.

It was a consolation, however, of which every member would be sensible, to reflect on the happy difference of our situation, on such occurrences, from that of Governments in which the constituent members possessed independent and hereditary prerogatives. In such Governments, the parties having a personal interest in their public stations, and not being amenable to the national will, disputes concerning the limits of their respective authorities might be productive of the most fatal consequences. With us, on the contrary, although disputes of that kind are always to be regretted, there were three most precious resources against the evil tendency of them. In the first place the responsibility which every department feels to the public will, under the forms of the Constitution, may be expected to prevent the excesses incident to conflicts between rival and irresponsible authorities. In the next place, if the difference cannot be adjusted by friendly conference and mutual concession, the sense of the constituent body, brought into the Government through the ordinary elective channels, may supply a remedy. And if this resource should fail, there remains, in the third and last place, that provident article in the Constitution itself, by which an avenue is always open to the sovereignty of the people, for explanations or amendments, as they might be found indispensable.

If, in the present instance, it was to be particularly regretted that the existing difference of opinion had arisen, every motive to the regret was a motive to calmness, to candor, and the most respectful delicacy towards the other constituted authority. On the other hand, the duty which the House of Representatives must feel to themselves and to their constituents, required that they should examine the subject with accuracy, as well as with candor, and decide on it with firmness, as well as with moderation.

In this temper, he should proceed to make some

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observations on the Message before the Committee, and on the reasons contained in it.

The Message related to two points: First. The application made for the papers. Secondly. The Constitutional rights of Congress, and of the House of Representatives, on the subject of Treaties.

On the first point, he observed, that the right of the House to apply for any information they might want, had been admitted by a member in the minority, who had opposed the exercise of the right in this particular case. He thought it clear that the House must have a right, in all cases, to ask for information which might assist their deliberations on the subjects submitted to them by the Constitution; being responsible, nevertheless, for the propriety of the measure. He was as ready to admit that the Executive had a right, under a due responsibility, also, to withhold information when of a nature that did not permit a disclosure of it at the time. And if the refusal of the President had been founded simply on a representation, that the state of the business within his department, and the contents of the papers asked for, required it, although he might have regretted the refusal, he should have been little disposed to criticise it. But the Message had contested what appeared to him a clear and important right of the House; and stated reasons for refusing the papers, which, with all the respect he could feel for the Executive, he could not regard as satisfactory or proper.

One other reason was, that it did not occur to the Executive that the papers could be relative to any purpose under the cognizance, and in the contemplation of the House. The other was, that the purpose for which they were wanted was not expressed in the resolution of the House.

With respect to the first, it implied that the Executive was not only to judge of the proper objects and functions of the Executive department, but also, of the objects and functions of the House. He was not only to decide how far the Executive trust would permit a disclosure of information, but how far the Legislative trust could derive advantage from it. It belonged, he said, to each department to judge for itself. If the Executive conceived that, in relation to his own department, papers could not be safely communicated, he might, on that ground, refuse them, because he was the competent though a responsible judge within his own department. If the papers could be communicated without injury to the objects of his department, he ought not to refuse them as irrelative to the objects of the House of Representatives; because the House was, in such cases, the only proper judge of its own objects.

The other reason of refusal was, that the use which the House meant to make of the papers was not expressed in the resolution.

As far as he could recollect, no precedent could be found in the records of the House, or elsewhere, in which the particular object in calling for information was expressed in the call. It was not only contrary to right to require this, but it would often be improper in the House to express the object. In the particular case of an impeachment

referred to in the Message, it might be evidently improper to state that to be the object of information which might possibly lead to it, because it would involve the preposterous idea of first determining to impeach, and then inquiring whether an impeachment ought to take place. Even the holding out an impeachment as a contemplated or contingent result of the information called for, might be extremely disagreeable in practice, as it might inflict a temporary pain on an individual, whom an investigation of facts might prove to be innocent and perhaps meritorious.

From this view of the subject he could not forbear wishing that, if the papers were to be refused other reasons had been assigned for it. He thought the resolutions offered by the gentleman from North Carolina, one of which related to this subject, ought to stand on the Journal along with the Message which had been entered there. Both the resolutions were penned with moderation and propriety. They went no farther than to assert the rights of the House; they courted no reply; and it ought not to be supposed they could give any offence.

The second object to which the measure related, was the Constitutional power of the House on the subject of Treaties.

Here, again, he hoped it may be allowable to wish that it had not been deemed necessary to take up, in so solemn a manner, a great Constitutional question, which was not contained in the resolution presented by the House, which had been incidental only to the discussion of that resolution, and which could only have been brought into view through the unauthentic medium of the newspapers. This, however, would well account for the misconception which had taken place in the doctrine maintained by the majority in the late question. It had been understood by the Executive, that the House asserted its assent to be necessary to the validity of Treaties. This was not the doctrine maintained by them. It was, he believed, fairly laid down in the resolution proposed, which limited the power of the House over Treaties, to cases where Treaties embraced Legislative subjects, submitted by the Constitution to the power of the House.

Mr. M. did not mean to go into the general merits of this question, as discussed when the former resolution was before the Committee. The Message did not request it, having drawn none of its reasoning from the text of the Constitution. It had merely affirmed that the power of making Treaties is exclusively vested by the Constitution in the President, by and with the advice and consent of the Senate. Nothing more was necessary on this point than to observe, that the Constitution had as expressly and exclusively vested in Congress the power of making laws, as it had vested in the President and Senate the power of making Treaties.

He proceeded to review the several topics on which the Message relied. First. The intention of the body which framed the Constitution. Secondly. The opinions of the State Conventions who adopted it. Thirdly. The peculiar rights

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and interests of the smaller States. Fourthly. The manner in which the Constitution had been understood by the Executive and the foreign nations, with which Treaties had been formed. Fifthly. The acquiescence and acts of the House on former occasions.

1. When the members on the floor, who were members of the General Convention, particularly a member from Georgia and himself, were called on in a former debate for the sense of that body on the Constitutional question, it was a matter of some surprise, which was much increased by the peculiar stress laid on the information expected. He acknowledged his surprise, also, at seeing the Message of the Executive appealing to the same proceedings in the General Convention, as a clue to the meaning of the Constitution.

It had been his purpose, during the late debate, to make some observations on what had fallen from the gentlemen from Connecticut and Maryland, if the sudden termination of the debate had not cut him off from the opportunity. He should have reminded them that this was the ninth year since the Convention executed their trust, and that he had not a single note in this place to assist his memory. He should have remarked, that neither himself nor the other members who had belonged to the Federal Convention, could be under any particular obligation to rise in answer to a few gentlemen, with information, not merely of their own ideas of that period, but of the intention of the whole body, many members of which, too, had probably never entered into the discussions of the subject. He might have further remarked, that there would not be much delicacy in the undertaking, as it appeared that a sense had been put on the Constitution by some who were members of the Convention, different from that which must have been entertained by others, who had concurred in ratifying the Treaty.

After taking notice of the doctrine of Judge Wilson, who was a member of the Federal Convention, as quoted by Mr. GALLATIN from the Pennsylvania debates, he proceeded to mention that three gentlemen, who had been members of the Convention, were parties to the proceedings in Charleston, South Carolina, which, among other objections to the Treaty, represented it as violating the Constitution. That the very respectable citizen, who presided at the meeting in Wilmington, whose resolutions made a similar complaint, had also been a distinguished member of the body that formed the Constitution.

It would have been proper for him also to have recollected what had, on a former occasion, happened to himself during a debate in the House of Representatives. When the bill for establishing a National Bank was under consideration, he had opposed it, as not warranted by the Constitution, and incidentally remarked that his impression might be stronger, as he remembered that, in the Convention, a motion was made and negatived, for giving Congress a power to grant charters of incorporation. This slight reference to the Convention, he said, was animadverted on by several, in the course of the debate, and particularly by a

gentleman from Massachusetts, who had himself been a member of the Convention, and whose remarks were not unworthy the attention of the Committee. Here Mr. M. read a paragraph from Mr. GERRA's speech, from the Gazette of the United States, page 814, protesting, in strong terms, against arguments drawn from that source.

Mr. M. said, he did not believe a single instance could be cited in which the sense of the Convention had been required or admitted as material in any Constitutional question. In the case of the Bank, the Committee had seen how a glance at that authority had been treated in this House. When the question on the suability of the States was depending in the Supreme Court, he asked, whether it had ever been understood that the members of the Bench, who had been members of the Convention, were called on for the meaning of the Convention on that very important point, although no Constitutional question would be presumed more susceptible of elucidation from that source?

He then adverted to that part of the Message which contained an extract from the Journal of the Convention, showing that a proposition "that no Treaty should be binding on the United States, which was not ratified by law," was explicitly rejected. He allowed this to be much more precise than any evidence drawn from the debates in the Convention, or resting on the memory of individuals. But admitting the case to be as stated, of which he had no doubt, although he had no recollection of it, and admitting the record of the Convention to be the oracle that ought to decide the true meaning of the Constitution, what did this abstract vote amount to? Did it condemn the doctrine of the majority? So far from it, that, as he understood their doctrine, they must have voted as the Convention did; for they do not contend that no Treaty shall be operative without a law to sanction it; on the contrary, they admit that some Treaties will operate without this sanction; and that it is no further applicable in any case than where Legislative objects are embraced by Treaties. The term "ratify" also deserved some attention; for, although of loose significance in general, it had a technical meaning different from the agency claimed by the House on the subject of Treaties.

But, after all, whatever veneration might be entertained for the body of men who formed our Constitution, the sense of that body could never be regarded as the oracular guide in expounding the Constitution. As the instrument came from them it was nothing more than the draft of a plan, nothing but a dead letter, until life and validity were breathed into it by the voice of the people, speaking through the several State Conventions. If we were to look, therefore, for the meaning of the instrument beyond the face of the instrument, we must look for it, not in the General Convention, which proposed, but in the State Conventions, which accepted and ratified the Constitution. To these also the Message had referred, and it would be proper to follow it.

2. The debates of the Conventions in three

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States (Pennsylvania, Virginia, and North Carolina) had been before introduced into the discussion of this subject, and were believed the only publications of the sort which contained any lights with respect to it. He would not fatigue the Committee with a repetition of the passages then read to them. He would only appeal to the Committee to decide whether it did not appear, from a candid and collected view of the debates in those Conventions, and particularly in that of Virginia, that the Treaty making power was a limited power; and that the powers in our Constitution, on this subject bore an analogy to the powers on the same subject in the Government of Great Britain. He wished, as little as any member could, to extend the analogies between the two Governments; but it was clear that the constituent parts of two Governments might be perfectly heterogeneous, and yet the powers be similar.

At once to illustrate his meaning, and give a brief reply to some arguments on the other side, which had heretofore been urged with ingenuity and learning, he would mention, as an example, the power of pardoning offences. This power was vested in the PRESIDENT; it was a prerogative also of the British King. And, in order to ascertain the extent of the technical term "pardon," in our Constitution, it would not be irregular to search into the meaning and exercise of the power in Great Britain. Yet, where is the general analogy between an hereditary Sovereign, not accountable for his conduct, and a Magistrate like the PRESIDENT OF THE UNITED STATES, elected for four years, with limited powers, and liable to impeachment for the abuse of them?

In referring to the debates of the State Conventions as published, he wished not to be understood as putting entire confidence in the accuracy of them. Even those of Virginia, which had been probably taken down by the most skilful hand, (whose merit he wished by no means to disparage,) contained internal evidence in abundance of chasms and misconceptions of what was said.

The amendments proposed by the several Conventions were better authority, and would be found, on a general view, to favor the sense of the Constitution which had prevailed in this House. But even here it would not be reasonable to expect a perfect precision and system in all their votes and proceedings. The agitations of the public mind on that occasion, with the hurry and compromise which generally prevailed in settling the amendments to be proposed, would at once explain and apologize for the several apparent inconsistencies which might be discovered.

He would not undertake to say that the particular amendment referred to in the Message, by which two States require that "no Commercial Treaty should be ratified without the consent of two thirds of the whole number of Senators, and that no Territorial rights, &c., should be ceded without the consent of three-fourths of the members of both Houses," was digested with an accurate attention to the whole subject. On the other

hand, it was no proof that those particular Conventions, in annexing these guards to the Treaty power, understood it as different from that espoused by the majority of the House. They might consider Congress as having the power contended for over Treaties stipulating on Legislative subjects, and still very consistently wish for the amendment they proposed. They might not consider the Territorial rights and other objects for which they required the concurrence of three-fourths of the members of both Houses, as coming within any of the enumerated powers of Congress, and, therefore, as not protected by that control over Treaties. And although they might be sensible that Commercial Treaties were under that control, yet, as they would always come before Congress with great weight after they had passed through the regular forms and sanctions of the Treaty department, it might be deemed of real importance that the authority should be better guarded which was to give that weight to them.

He asked, whether it might not happen, even in the progress of a Treaty through the Treaty department, that each succeeding sanction might be given, more on account of preceding sanctions than of any positive approbation? And no one could doubt, therefore, that a Treaty which had received all these sanctions would be controlled with great reluctance by the Legislature, and, consequently, that it might be desirable to strengthen the barriers against making improper Treaties, rather than trust too much to the Legislative control over carrying them into effect.

But, said Mr. M., it will be proper to attend to other amendments proposed by the ratifying Conventions, which may throw light on their opinions and intentions on the subject in question. He then read from the Declaration of Rights proposed by Virginia to be prefixed to the Constitution, the seventh article, which is as follows:

"That all power of suspending laws, or the execution of laws, by any authority, without the consent of the Representatives of the people in the Legislature, is injurious to their rights, and ought not to be exercised."

The Convention of North Carolina, as he showed, had laid down the same principle in the same words. And it was to be observed that, in both Conventions, the article was under the head of a Declaration of Rights, "asserting and securing from encroachment the essential and inalienable rights of the people," according to the language of the Virginia Convention; and "asserting and securing from encroachment the great principles of civil and religious liberty, and the inalienable rights of the people," as expressed by the Convention of North Carolina. It must follow that these two Conventions considered it as a fundamental, inviolable, and universal principle in a free Government, that no power could supersede a law without the consent of the Representatives of the people in the Legislature.

In the Maryland Convention also, it was among the amendments proposed, though he believed not decided on, "that no power of suspending laws, or the execution of laws, unless derived from the Legislature, ought to be exercised or allowed."

The Convention of North Carolina had further explained themselves on this point, by their twenty-third amendment proposed to the Constitution, in the following words: "That no Treaties which shall be directly opposed to the existing laws of the United States in Congress assembled, shall be valid until such laws shall be repealed or made conformable to such Treaty; nor shall any Treaty be valid which is contradictory to the Constitution of the United States."

The latter part of the amendment was an evidence that the amendment was intended to ascertain rather than to alter the meaning of the Constitution; as it could not be supposed to have been the real intention of the Constitution that a Treaty contrary to it should be valid.

He proceeded to read the following amendments accompanying the ratification of State Conventions:

The New York Convention had proposed "that no standing army or regular troops shall be raised or kept up in time of peace without the consent of two-thirds of the Senators and Representatives in each House."

"That no money be borrowed on the credit of the United States, without the assent of two-thirds of the Senators and Representatives in each House."

The New Hampshire Convention had proposed "that no standing army shall be kept up in time of peace, unless with the consent of three quarters of the members of each branch of Congress." In the Maryland Convention a proposition was made in the same words.

The Virginia Convention had proposed "that no navigation law, or law regulating commerce, shall be passed without the consent of two-thirds of the members present in both Houses."

"That no standing army or regular troops shall be raised or kept up in time of peace, without the consent of two-thirds of the members present in both Houses."

"That no soldier shall be enlisted for any longer term than four years, except in time of war, and then for no longer term than the continuance of the war."

The Convention of North Carolina had proposed the same three amendments in the same words.

On a review of these proceedings, may not, said he, the question be fairly asked, whether it ought to be supposed that the several Conventions who showed so much jealousy with respect to the powers of commerce, of the sword, and of the purse, as to require, for the exercise of them, in some cases two-thirds, in others three-fourths of both branches of the Legislature, could have understood that, by the Treaty clauses in the Constitution, they had given to the PRESIDENT and Senate, without any control whatever from the House of Representatives, an absolute and unlimited power over all those great objects?

3. It was with great reluctance, he said, that he should touch on the third topic—the alleged interest of the smaller States in the present question. He was the more unwilling to enter into

this delicate part of the discussion, as he happened to be from a State which was in one of the extremes in point of size. He should limit himself, therefore, to two observations. The first was, that if the spirit of amity and mutual concession from which the Constitution resulted was to be consulted on expounding it, that construction ought to be favored which would preserve the mutual control between the Senate and House of Representatives, rather than that which gave powers to the Senate not controllable by, and paramount over those of the House of Representatives, whilst the House of Representatives could in no instance exercise their powers without the participation and control of the Senate. The second observation was, that, whatever jealousy might unhappily have prevailed between the smaller and larger States, as they had most weight in one or the other branch of Government, it was a fact, for which he appealed to the Journals of the old Congress, from its birth to its dissolution, and to those of the Congress under the present Government, that in no instance would it appear, from the yeas and nays, that a question had been decided by a division of the votes according to the size of the States. He considered this truth as affording the most pleasing and consoling reflection, and as one that ought to have the most conciliating and happy influence on the temper of all the States.

4. A fourth argument in the Message was drawn from the manner by which the Treaty power had been understood by both parties in the negotiations with foreign Powers. "In all the Treaties made, *we* have declared and *they* have believed," &c. By *we*, he remarked, was to be understood the Executive alone, who had made the declaration, and in no respect the House of Representatives. It was certainly to be regretted, as had often been expressed, that different branches of the Government should disagree in the construction of their powers; but when this could not be avoided, each branch must judge for itself; and the judgment of the Executive could in this case be no more an authority overruling the judgment of the House than the judgment of the House could be an authority overruling that of the Executive. It was also to be regretted that any foreign nation should at any time proceed under a misconception of the meaning of our Constitution. But no principle was better established in the Laws of Nations, as well as in common reason, than that one nation is not to be the interpreter of the Constitution of another. Each nation must adjust the forms and operations of its own Government, and all others are bound to understand them accordingly. It had before been remarked, and it would be proper to repeat it here, that of all nations Great Britain would be the least likely to object to this principle, because the construction given to our Government was particularly exemplified in her own.

5. In the fifth and last place, he had to take notice of the suggestion, that every House of Representatives had concurred in the construction of the Treaty power, now maintained by the Executive; from which it followed that the House could not

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now consistently act under a different construction. On this point, it might be sufficient to remark, that this was the first instance in which a foreign Treaty had been made since the establishment of the Constitution; and that this was the first time the Treaty-making power had come under formal and accurate discussion. Precedents, therefore, would readily be perceived to lose much of their weight. But whether the precedents found in the proceedings preparatory to the Algerine Treaty, or in the provisions relative to the Indian Treaties, were inconsistent with the right which had been contended for in behalf of the House, he should leave to be decided by the Committee. A view of these precedents had been pretty fully presented to them by a gentleman from New York [Mr. LIVINGSTON,] with all the observations which the subject seemed to require.

On the whole, it appeared that the rights of the House on the two great Constitutional points had been denied by a high authority in the Message before the Committee. This Message was entered on the Journals of the House. If nothing was entered in opposition thereto, it would be inferred that the reasons in the Message had changed the opinion of the House, and that their claims on those great points were relinquished. It was proper, therefore, that the questions, brought fairly before the Committee in the propositions of the gentleman [Mr. BLOUNT] from North Carolina, should be examined and formally decided. If the reasoning of the Message should be deemed satisfactory, it would be the duty of this branch of the Government to reject the propositions, and thus accede to the doctrines asserted by the Executive. If, on the other hand, this reasoning should not be satisfactory, it would be equally the duty of the House, in some such firm, but very decent terms, as are proposed, to enter their opinions on record. In either way, the meaning of the Constitution would be established, as far as depends on the vote of the House of Representatives.

APRIL 7.—The order of the day being called for on the consideration of the PRESIDENT'S Message, the House resolved itself into a Committee of the Whole, on that subject, and the resolutions of Mr. BLOUNT having been read—

Mr. SWIFT and Mr. W. SMITH rose together, but Mr. SMITH giving way, Mr. SWIFT proceeded to remark, that he did not rise for the purpose of going into the subject, but to move that the question might be then taken. The same principles which were involved in the present question had already undergone a discussion of three weeks, and no doubt could remain on the mind of any gentleman in that House on the subject; nor did he think that if three weeks more were to be consumed in the discussion, one opinion would be changed. Therefore, as business of the utmost consequence called for their attention, as it was of the last importance that the Treaties lately formed with foreign nations should be carried into effect, he hoped they would enter upon the question of the state of the Union. If gentlemen wished to carry the Treaties into effect, he entreated them to come forward and do so; or, if they meant to

defeat them, he wished them at once to say so. If they went into the present discussion at length, there would not be time sufficient to determine upon the Treaties. He was willing to let the matter rest upon the representation of the gentleman from Virginia. He himself had taken no share in the debate, though, if it were to be again gone into, he should desire to be heard as well as others. But he was fully satisfied that gentlemen who had spoken on a former occasion would unite with him in wishing the question to be then taken.

The resolutions were then severally put and carried—51 members rising for each.

The House then took them up.

The previous question was called, viz: Shall the question now be put? on which the yeas and nays were taken, and stood—yeas 54, nays 37, as follows:

YEAS.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, John Clopton, Isaac Coles, Jeremiah Crabb, Henry Dearborn, Samuel Earle, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, Andrew Gregg, William B. Grove, Wade Hampton, George Hancock, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, George Jackson, Edward Livingston, Matthew Locke, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, Francis Preston, John Richards, Robert Rutherford, Jno. S. Sherburne, Israel Smith, Samuel Smith, Thomas Sprigg, John Swanwick, Absalom Tatum, Philip Van Cortlandt, Joseph B. Varum, Abraham Venable, and Richard Winn.

NAYS.—Fisher Ames, Benjamin Bourne, Theophilus Bradbury, Daniel Buck, Joshua Coit, William Cooper, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, Thomas Henderson, James Hillhouse, William Hindman, John Wilkes Kirtner, Samuel Lyman, Francis Malbone, William Vans Murray, John Reid, Theodore Sedgwick, Jeremiah Smith, Nathaniel Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Peleg Walsworth, and John Williams.

The yeas and nays were taken on the first resolution, and stood—yeas 57, nays 35, as follows:

YEAS.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, John Clopton, Isaac Coles, Jeremiah Crabb, Henry Dearborn, George Dent, Samuel Earle, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, Nicholas Gilman, Andrew Gregg, William B. Grove, Wade Hampton, George Hancock, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, George Jackson, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, Francis Preston, John Richards, Robert

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Rutherford, John S. Sherburne, Israel Smith, Samuel Smith, Thomas Sprigg, John Swauwick, Absalom Tatom, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Richard Winn.

YAYS.—Fisher Ames, Benjamin Bourne, Theophilus Bradbury, Daniel Buck, Joshua Coit, William Cooper, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Hartley, Thomas Henderson, James Hillhouse, William Hindman, John Wilkes Kittera, Samuel Lyman, Francis Malbone, William Vans Murray, John Reed, Theodore Sedgwick, Jeremiah Smith, Nathaniel Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

The second resolution was then taken up, and the yeas and nays stood as on the first.

The following members were absent when the yeas and nays were called on the main questions:

Messrs. Brent, Claiborne, Gillespie, Greenup, Holland, New, and Sitgreaves.

The following members were away upon leave of absence:

Messrs. Freeman, Kitchell, Leonard and Isaac Smith.

It was understood that the following members would have voted for the resolutions had they been present:

Messrs. Brent, Claiborne, Gillespie, Greenup, Holland, and New.

RECAPITULATION.

Yeas in the House	-	-	-	57
Yeas absent	-	-	-	6—63
Nays in the House	-	-	-	35
Mr. Sitgreaves absent (probably against the resolution)	-	-	-	1—36
				—
Majority for the resolutions	-	-	-	27
Absent on leave	-	-	-	4
Mr. Duvall resigned	-	-	-	1
The Speaker	-	-	-	1
				—
Whole number of members	-	-	-	105

TUESDAY, March 8.

A motion being made and agreed to, that the unfinished business should give way to take up a resolution laid on the table some days ago, recommending that a committee be appointed to make inquiry whether the contract entered into by Government with John Cleves Symmes, in October, 1783, for a tract of land in the Northwestern Territory, be fulfilled, or whether the nature of the contract be altered by any subsequent event, and to make report thereon—the resolution was agreed to, and a committee of three members appointed.

Petitions and representations of sundry citizens and inhabitants of the State of North Carolina, whose names are thereunto subscribed, to the same effect with others from the States of Vermont, New York, Virginia, and Georgia, on the subject of the late Treaty negotiated with Great Britain, and in opposition thereto, were presented

to the House and read. They were referred to the Committee of the Whole on the state of the Union.

The following Message was received from the **PRESIDENT OF THE UNITED STATES:**

*Gentlemen of the Senate, and
of the House of Representatives:*

I send herewith, for the information of Congress, the Treaty concluded between the United States and the Dey and Regency of Algiers.

G. WASHINGTON.

UNITED STATES, March 8, 1796.

The said Message and Treaty were read, and ordered to lie on the table.

TREATY WITH GREAT BRITAIN.

The order of the day was then taken up, on the resolution calling for papers from the **PRESIDENT** relative to the late Treaty.

[The whole debate upon this subject, commencing on the 7th of March, and continuing from day to day, till the 7th of April, is given entire in preceding pages, beginning with page 426, and concluding with page 783. The debate on carrying the Treaty into effect will be found in subsequent pages, among the proceedings of the day.]

WEDNESDAY, March 9.

TREATY WITH ALGIERS.

The Treaty lately concluded between the United States and the Dey and Regency of Algiers, which was yesterday communicated by the **PRESIDENT**, and laid upon the table, was taken up for the purpose of committing it to the Committee of the Whole on the state of the Union, when

Mr. COOPER observed, that if the Treaty was referred to a Committee of the Whole with any other view than that of making the necessary appropriations for carrying it into effect, he should object to it, for except the Treaty was evidently unconstitutional, it was a law of the land, and that House had no right to discuss its merits, and therefore they might as well refer the Constitution to a Committee of the Whole, as such a Treaty, which did not come under Legislative control.

Mr. GILES said he should vote for the Treaty alluded to being committed to a Committee of the Whole, not for the purpose only of providing appropriations for carrying it into effect, but in order to examine whether it was a Treaty proper to be carried into effect; if not, he should vote against giving aid for the purpose. If it was committed, therefore, he trusted it would be with that view. It appeared to him as if gentlemen seemed to be aware of the embarrassments which their arguments threw them into. When they went into a Committee of the Whole, they went officially, whether they should vote for it or not. Gentlemen say, that after the **PRESIDENT** and Senate have ratified a Treaty, nothing remains for them to do; but they should recollect that a very essential point is yet to be attended to, viz:

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nothing less than the granting of money to carry it into execution.

Mr. SEDGWICK said, that the Treaty must be committed to a Committee of the Whole, on whatsoever ground it might be taken up. Those members who thought with him that its merits were not a subject of Legislative inquiry, and those who differed from them in sentiment, must equally agree in the propriety of committing it, in order to be acted upon. He trusted the nature of the Treaty was such as not to admit of any difference of opinion on the expediency of carrying it into effect.

The Treaty was then committed to the Committee of the Whole on the state of the Union.

CONTESTED ELECTION.

Mr. SEDGWICK, one of the members from the State of Massachusetts, presented to the House certain testimony in the case of the contested election of JOSEPH BRADLEY VARNUM, returned to serve in this House, as a member for the said State; which was read, and ordered to be referred to the Committee of Elections.

Mr. VENABLE, from the Committee of Elections, to whom were referred the credentials of DAVID BARD, returned to serve in this House as a member for the State of Pennsylvania, made a report; which was read, and ordered to lie on the table.

The House then resolved itself into a Committee of the Whole on the resolution calling for certain papers from the PRESIDENT relative to the Treaty with Great Britain. [For proceedings on which, see *ante*.]

THURSDAY, March 10.

This day was spent in discussing the resolution calling for papers from the PRESIDENT in relation to the late Treaty, for proceedings on which, see *ante*.

FRIDAY, March 11.

Mr. JEREMIAH SMITH, from the committee to whom was recommended the bill authorizing a Loan for the use of the City of Washington, in the District of Columbia, and for other purposes therein mentioned, with instructions to inquire whether any, and what, alterations ought to be made in the plans of the buildings intended for public use at the said City: and, also, to inquire into the state of the public buildings, the expenses already incurred in erecting, and the probable expenses of completing the same, made a report; which was read, and ordered to be committed to a Committee of the Whole House on Monday next.

Mr. J. S. also reported an amendatory bill authorizing a Loan for the use of the City of Washington, in the District of Columbia, and for other purposes therein mentioned; which was received, read twice, and committed to a committee of the Whole House for Monday next.

The House then resolved itself into a Committee of the Whole on the resolution calling for papers from the PRESIDENT relative to the Treaty

with Great Britain, on which it spent the remainder of the day.

MONDAY, March 14.

Mr. TRACY presented a bill authorizing the Secretary of War to place certain persons on the pension list, which was read twice, and committed to a Committee of the Whole for Monday.

Mr. LIVINGSTON presented a bill for the relief of American seamen; which was read twice, and committed.

Mr. WILLIAM SMITH, from the Committee of Ways and Means, presented a bill in addition to an act, entitled "An act making further provision for the support of Public Credit, and for the redemption of the Public Debt; which was received, and read the first and second times, and committed to a Committee of the Whole House for Thursday next.

Mr. PARKER said he wished to lay a resolution on the table, which had in view the relief of a very deserving class of citizens, he meant such wounded soldiers in the late war as had their claims barred by the statute of limitation. The resolution was to the following effect:

"Resolved, That a Committee shall be appointed to inquire if any, and if any what, relief ought to be granted to persons wounded in the late war with Great Britain, whose claims had been superseded by the act of limitation."

CHALLENGING A MEMBER.

Mr. GILES thought a challenge which had been given to the member from Georgia was a serious breach of the privileges of that House, and he trusted the House would take up the business in a proper manner. For this purpose, he moved that the gentleman be requested to draw up a statement of the affair in writing, and lay it before the House.

After a number of observations from different members upon the best method of proceeding in the business, the consideration of the subject was put off till to-morrow.

Mr. BALDWIN, one of the members from Georgia, then presented to the House certain papers, marked No. 1, 2, 3, 4, 5, relative to a correspondence between JAMES GUNN, one of the Senators of the United States from the said State of Georgia, and the said BALDWIN, including a challenge addressed to him by the said GUNN; which were received, read, and ordered to lie on the table.

The papers which Mr. BALDWIN laid on the table were as follow:

No. 1.

PHILADELPHIA, March 9, 1796.

SIR: My letters apprise me of a paper signed by a number of the Senators and Representatives of the Georgia Assembly, which has been forwarded to you, to be presented to Congress in case the purchasers of Georgia Western lands should offer their territory to the Government of the United States previous to the meeting of the Legislature of that State. As a member of the Senate I have a right to a perusal of any paper from the State of Georgia intended for public

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Impressment of Seamen.

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use, and sir, as an individual who may be interested in its contents, I demand the original paper, or a certified copy, with the names of all the signers.

I am, sir, your obedient servant,

J. GUNN.

Hon. Mr. BALDWIN.

No. 2.

PHILADELPHIA, March 10, 1796.

SIR: Your extraordinary note of yesterday is just put into my hands. You speak of a "paper to be presented to Congress on a certain contingency," and of your right "to a perusal of any paper from the State of Georgia intended for public use." It is very probable I may, at some times, have papers from the State of Georgia intended for public use, which may have been confided to my individual discretion. Such a paper as you describe I have not yet seen. Had you approached me in the forms of common civility, there is no letter in my possession so secret, that I should not willingly have submitted it to your perusal. I have none that I think proper to surrender to your demand.

I am, sir, your obedient servant,

ABRAHAM BALDWIN.

General GUNN.

No. 3.

MARCH 11, 1796.

SIR: I have received your note of the 10th instant. Had you been governed by motives of common civility or decency, you would not have concealed from my view a paper more than four weeks in your possession, which was to be used whenever an occasion offered to do me an injury. I shall not repeat my call for that paper, but view the concealer of the *weapon of an assassin* an associate in the guilt. I therefore demand satisfaction, and ask you, sir, to have the goodness to inform my friend, General Frelinghuysen, when and where I may meet you.

I am, sir, your obedient servant,

J. GUNN.

Hon. Mr. BALDWIN.

No. 4.

FRIDAY, March 11, 1796.

SIR: Will you be so obliging as to communicate to me in writing your recollection of my offer to submit to your perusal all the letters of myself and colleague, how you expressed it to General Gunn, and his reply. I am unwilling to give you this trouble, but it seems to be necessary to enable me to determine what course I shall pursue on the subject of the note which you handed me this morning.

With great respect, I am, sir, your obedient servant,

ABRAHAM BALDWIN.

General FRELINGHUYSEN.

No. 5.

PHILADELPHIA, March 12, 1796.

SIR: I received your note too late last evening to answer it. We had three conversations yesterday on the subject of the controversy between you and General Gunn. In the first, you offered to submit to my perusal all the letters of yourself and colleague, without any condition, and I so expressed it to General Gunn, who appeared satisfied with the proposal. In the second, I requested you to appoint an hour for the purpose; you then annexed this condition, that

after perusing the letters, I should not be at liberty to communicate their contents to General Gunn, unless he, in my judgment, was entitled to the letters upon demand.

I mentioned this to General Gunn, in your very words, and at the same time told him, that I did not wish to be a judge in the matter. In our third conversation, I informed you that General Gunn was dissatisfied with your last proposal; that he conceived himself justly entitled to see the letters, or to know their contents—and I handed you the *note*. I do not think it necessary to detail any other part of our conversation.

I am, sir, &c.,

F. FRELINGHUYSEN.

Mr. A. BALDWIN.

The House then resolved itself into a Committee of the Whole on the resolution relative to the calling for certain papers from the PRESIDENT relative to the British Treaty, and spent the remainder of the day therein.

TUESDAY, March 15.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
of the House of Representatives:*

By the ninth section of the act, entitled "An act to provide a Naval Armament," it is enacted, "That, if a peace should take place between the United States and the Regency of Algiers, that no further proceedings be had under this act."

The peace which is here contemplated having taken place, it is incumbent upon the executive to suspend all orders respecting the building of the frigates, procuring materials for them, or preparing materials already obtained; which may be done without intrenching upon contracts or agreements made and entered into before this event.

But, inasmuch as the loss which the public would incur might be considerable from dissipation of workmen, from certain works or operations being suddenly dropped or left unfinished, and from the derangement in the whole system, consequent upon an immediate suspension of all proceedings under it, I have therefore thought advisable, before taking such a step, to submit the subject to the Senate and House of Representatives, that such measures may be adopted in the premises as may best comport with the public interest.

G. WASHINGTON.

UNITED STATES, March 15, 1796.

The said Message was read, and ordered to be referred to the Committee of the Whole House to whom is committed the report of the committee appointed to inquire into the actual state of the naval equipment, ordered by a former law of the United States.

IMPRESSMENT OF SEAMEN.

Mr. S. SMITH presented the protest of John Green, captain of a brig trading from Baltimore to the West Indies, who deposes that when he was with his vessel at Cape Nicholas Mole, he was on board a schooner belonging to one of the Eastern States of America, and saw two of the crew, natives of America, forcibly taken and impressed from on board the said schooner, by the officers of

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Breach of Privilege—Naval Armament.

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the British man-of-war called the *Seyvern*, then lying there, one of whom was afterwards returned on account of his inability to do duty. The captain also deposes that the commander of the said ship of war said that he was authorized by the late Treaty to take all seamen who were not possessed of protections from the United States.

This protest, after a number of observations from different members on the propriety of referring it to the committee to whom was referred the business of American seamen, or whether it should be immediately referred to the Secretary of State, in order that the President might make suitable representations to the British Government, was at length referred to the committee above named.

The Committee of Elections reported a wish for instructions relative to the receiving of evidence with respect to the election of Mr. VARNUM, of the State of Massachusetts. They further report that they had examined the petitions against the election of Mr. SWANWICK, for the State of Pennsylvania, and found that the petitioners had entirely failed in supporting their allegations, and that consequently Mr. SWANWICK was duly entitled to his seat. Laid on the table.

BREACH OF PRIVILEGE.

Letters from Gen. GUNN and Gen. FRELINGHUYSEN, of the Senate, to the Speaker of the House, were read, and referred to the Committee of Privileges. They are as follows:

PHILADELPHIA, March 15, 1796.

SIR: It is with real concern that I have learned that a correspondence between Mr. Baldwin, of the House of Representatives, and myself, has been represented as an intended breach of the privileges of that House. I feel myself required, by the respect I owe to the House and in justice to myself, to declare, without the slightest delay, that the correspondence alluded to originated in considerations strictly personal, and which had no reference to any question before Congress. I will add, sir, that nothing was more distant from my intentions than to have taken a step on this occasion which could be construed into a disrespect of the House—much less into a breach of any of their privileges.

Though this correspondence has been viewed by me as incapable of affecting the privileges of the House of Representatives, yet, as doubts may be entertained on this point, I pledge myself to respect, on this occasion, those privileges in their broadest interpretation; and I do assure you, sir, that though the place in which Mr. Baldwin has thought proper to disclose this transaction is quite unexpected, it shall be to him an inviolable sanctuary.

With great respect, I have the honor to be, sir, your obedient servant,

J. GUNN.

HON. JONATHAN DAYTON, *Speaker to the House of Representatives.*

PHILADELPHIA, March 15, 1796.

SIR: It has been hinted to me that insinuations are made, relative to my conduct in the unpleasant controversy between Gen. Gunn and Mr. Baldwin, injurious to my character. It is said that by my frequent calls upon Mr. Baldwin, I prevented him from taking a part in the debates of last Friday. I will state, sir, to you facts which Mr. Baldwin will not deny. When I first

called upon him, I expressly asked him whether he was at leisure? He said he was at leisure, and very willingly engaged in a conversation of about five minutes; at the close of which I asked him whether I should call on him again while at the House, or whether he would be engaged? He desired me to call on him again at the House. At the close of our second interview I again asked him the same questions, and he made the same reply. To the best of my memory the three conversations did not take up ten minutes, during which time Mr. Giles was speaking.

I will add, sir, that if Mr. Baldwin will have the candor to relate to the honorable House of Representatives the whole of my conduct on this occasion, I am confident he will fully convince them that I had not the most distant idea either of infringing their privileges or of hurting his feelings, but that the amicable settlement of the controversy was the sole object of my wishes.

I am, sir, with great esteem, your most obedient servant,

FREDERICK FRELINGHUYSEN.

The Hon. the SPEAKER of the House of Representatives of the United States.

Mr. BALDWIN said, that when he was called out of the House on the occasion which he had before stated, his surprise to find Mr. FRELINGHUYSEN interested in the subject, induced him immediately, on his being made acquainted with his name, to say, that though his person was not known to him, he had long had much respect for his name; that he begged him to be assured he had as much confidence in him as Mr. GUNN could have; that inasmuch as he had thought proper to interest himself on the occasion, he had without doubt made himself acquainted with the subject, and must have found some grounds to believe that he had attempted to suppress or withhold some Senatorial paper. That as he could not suffer such imputation to rest upon him for a moment, he was willing to submit to his inspection the letters and papers of his colleague, as had been before stated, that he might be at once satisfied. Mr. B. said further, that he had not intended to insinuate, in anything he had said to the House, that Mr. FRELINGHUYSEN unnecessarily consumed time on the occasion; that what he had said was merely to give a statement of the fact; that as to the question of Mr. FRELINGHUYSEN, whether it was not an interruption to him, and whether he should call on him again at the House, it is very probable it might have been asked and repeated, but the impression of the importance of being immediately relieved from the imputation of being guilty of suppressing official papers, so absorbed his attention, that if the questions were asked, he must say with truth, he did not recollect them. He begged leave again to assure the House that he had never intended to insinuate that Mr. FRELINGHUYSEN had been guilty of rudeness in his manner, or unnecessarily consuming time.

NAVAL ARMAMENT.

Mr. W. SMITH wished the unfinished business might give way, to take up the report of the committee on the Naval Armament, in consequence of the Message just received from the President on that subject; as it was very material that immediate attention should be given to the subject. He

thought some sort of compromise might be entered into, without taking up much time.

Mr. GALLATIN said, that as the Message was only just received from the PRESIDENT, they could not with propriety go into the business immediately. He thought with the gentleman who proposed the measure, that a compromise might be agreed upon, and for that purpose he had drawn up a resolution. But as the subject of a compromise was new, and had not before been mentioned, he thought it best not to go into it suddenly. Nor did he think it right that the question which had for many days engaged their attention, and which must be drawing towards a close, should be postponed. A day or two could not be of great consequence to the proposed business.

Mr. S. SMITH wished the resolution mentioned by Mr. GALLATIN might be laid on the table; which was agreed to, and Mr. W. SMITH withdrew his motion. The resolution was to the following effect:

“Resolved, That the President be authorized to suspend the proceedings under the act passed March 27, 1794, for providing a Naval Armament, until the — day of —, anything to the contrary notwithstanding.”

The House then went into Committee of the Whole on the resolution calling for papers, &c., and spent the day therein.

WEDNESDAY, March 16.

The order of the day on the resolution calling for certain papers from the PRESIDENT on the subject of the late Treaty with Great Britain, was taken up in committee of the whole; but no question being taken, the Committee had leave to sit again.

THURSDAY, March 17.

A report of the Committee of Privileges, to whom was referred the papers laid upon the table by Mr. BALDWIN, with respect to a challenge he had received from Mr. GUNN, of the Senate, together with a letter from that gentleman and another from Mr. FRELINGHUYSEN to the SPEAKER, in exculpation of their conduct; and also a letter from Mr. FRELINGHUYSEN to the committee, were read. The report states that the privileges of the House had been infringed, but give it as their opinion that the letters which had been sent to the SPEAKER and to the committee should be received as sufficient apologies.

The report was ordered to lie.

ADDITIONAL REVENUE.

A report from the Committee of Ways and Means, respecting the measures necessary to be taken for raising additional revenue for public exigencies, was twice read, ordered to be printed, and committed to a Committee of the Whole on Monday se'nnight. The report is as follows:

The Committee of Ways and Means, having taken into their consideration the state of the receipts and ex-

penditures of the United States, and the existing and approaching exigencies for which provision will be requisite, make the following report:

1st. That, in their opinion, the proceeds of the duties on imports and tonnage and of the internal revenues, which will be received in the Treasury during the year 1796, will be adequate to discharge the current expenditures of the said year, upon the scale of expense stated in the estimates transmitted with the report of the Secretary of the Treasury, dated the 14th of December, 1795, including the payment of the interest on the Public Debt, and the reimbursement of the annuity due on the domestic stock, bearing a present interest of six per cent. But that they will be insufficient to repay either the anticipations heretofore obtained on the credit of the revenue, already accrued from imports and tonnage, but remaining uncollected, amounting to three millions eight hundred thousand dollars, or the instalments of the Foreign Debt and Domestic Loans, which fall due during the present year, amounting to one million two hundred thousand dollars; and that there is, therefore, a sum of five millions of dollars to be provided for, either by continuing the present anticipations, or by obtaining loans upon other terms.

2d. That, in like manner, the probable receipts into the Treasury for the years 1797, 1798, 1799, and 1800, will, respectively, defray the current expenditures of the same years, supposing the public expenses not to be increased; but will prove insufficient to discharge the instalments of Foreign Debt or of Domestic Loans which will fall due during those years.

3d. That, from and after the year 1801, the current expenditure will be increased by a sum of \$1,146,370 34, which will be required to discharge the annuity that will then become due and payable on the deferred stock.

4th. That, exclusive of the anticipations mentioned in the first paragraph of this report, the instalments of the Domestic Loans, which will fall due after the present year, amount to \$1,600,000; the whole of which will fall due before and during the year 1801.

5th. That the whole of the Foreign Debt, exclusive of the instalment which will fall due in the current year, amounts to \$11,400,000, the whole of which will fall due before and during the year 1809; and that there is but little expectation that the holders of said debt will convert the same into Domestic Debt upon any reasonable terms, or that, in the present circumstances of Europe, the instalments that will become due within a short period can be discharged by obtaining a re-loan of the same, upon similar terms with those on which the original loans were obtained.

6th. That no means are provided on the present scale of revenue and expenditures, either to discharge the Domestic Loans and instalments of the Foreign Debt, above mentioned, or to pay the additional expenditure of \$1,146,370 34, arising from and after the year 1800.

7th. That, in order to discharge the anticipations, Domestic Loans, and instalments of Foreign Debt, it will be necessary, either to provide further revenues, or to adopt such measures as will vest in the proper officers an efficient power to obtain loans, on such terms as they can now be obtained; but, that, so far as relates to the additional expenditure of \$1,146,370 34, accruing after the year 1800, an adequate additional revenue must be provided after that year.

8th. That if an additional revenue of 1,200,000 be raised, from and after the present year, it will not only be sufficient to discharge the annuity which will become due and payable after the year 1800, but will also reimburse \$4,800,000, in part, of the anticipations, Domes-

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Additional Revenue—Naval Armament.

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tic Loans, and Foreign Debt, before mentioned, antecedent to the year 1801, and the whole amount of the said loans and anticipations before the year 1807; leaving then a redeemed annuity, which is calculated at \$396,000, to be applied to the reimbursement of the Foreign Debt.

9th. That if an additional revenue of \$2,000,000, instead of \$1,200,000, be raised, for a term of twelve years, it will, within that period, discharge, besides the accruing annuity arising from the Deferred Debt and the Domestic Loans and anticipations aforesaid, the whole of the Foreign Debt, and the new Domestic Stock, bearing an interest of $5\frac{1}{2}$ and $4\frac{1}{2}$ per centum; and that, at the end of the said period of twelve years, an annuity will be redeemed, which is calculated at \$1,113,930; which, with the revenues now established, will be sufficient to meet all demands against the Government, upon the principles before assumed.

The committee having contemplated the various resources of the United States, which may be resorted to in the present exigency, and having, in the first instance, turned their attention to the subject of indirect taxes, were not able to agree upon objects suitable for that kind of taxation from which an adequate revenue could be obtained, without great inconvenience and embarrassment. On recurring to objects of direct taxation, they are of opinion that those are alone competent to yield such a revenue as appears necessary; the subject being, however, of a new impression, and presenting various difficulties, which, although of a nature to be overcome, yet are such as prevent the completion of a proper system during the present session, the committee have concluded to go no further, at this time, than to report a resolution preparatory to that object.

The committee are, moreover, of opinion, that some further revenues, in addition to the improvements of the present internal revenues already and hereinafter proposed may during this session be obtained, from an extension of the system of indirect taxation; and, therefore, submit certain resolutions to that effect.

But, inasmuch as the actual receipts into the Treasury will be inadequate to discharge the current expenses of the Government, and the loans had of the Bank of the United States, which fall due in the course of the present year, and as future loans and anticipations may become necessary, the committee are of opinion that a Loan, to the amount of five millions of dollars, ought to be opened, for the purpose of discharging the said debt due to the Bank of the United States.

As the result of their deliberations on the important subjects referred to their consideration, the committee, therefore, recommend the following resolutions:

1st. *Resolved*, That the Secretary of the Treasury be directed to prepare and report to the House of Representatives, at the next session, a plan for raising the sum of \$2,000,000, by apportionment among the several States, agreeably to the rule prescribed by the Constitution; adapting the same to such objects of direct taxation and such modes of collection as may appear, by the laws and practice of the States respectively, to be most eligible in each.

2d. *Resolved*, That a duty of two per centum *ad valorem* ought to be imposed on all testamentary dispositions, descents, and successions to the estates of intestates, excepting those to parents, husbands, wives, or infant descendants.

3d. *Resolved*, That the following duties ought to be imposed by means of stamps, viz:

On letters patent - - - - \$2 00

Exemplification thereof	-	-	\$1 00
Awards	-	-	20
Bottomry and respondentia bonds	-	-	50
Indentures of apprenticeship	-	-	30
Certificates of debentures for drawbacks	-	-	20
Bills of lading coastwise, except those from one district to another, within the same State	-	-	10
Ditto for bills of lading	-	-	40
Bonds, bills, or notes, for the security of money, according to the following scale:			
Above fifty, and not exceeding one hundred dollars	-	-	10
Above one hundred, and not exceeding five hundred dollars	-	-	20
Above five hundred, and not exceeding one thousand dollars	-	-	30
Above one thousand dollars	-	-	50

Provided, That if any bonds or notes shall be payable at or within sixty days, such bonds or notes shall be subject to only one-fourth part of the duty aforesaid.

Notarial acts	-	-	25
Letters of attorney (except for invalid pensions)	-	-	25
On policies of insurance, viz:			
From one district to another in the United States	-	-	10
To and from the United States to any foreign country, for any sum more than five hundred dollars, and less than one thousand dollars	-	-	25
For one thousand, and less than two thousand dollars	-	-	30
For every sum of two thousand dollars, and above	-	-	50
For all deeds for the conveyance of houses or lands	-	-	25
For every other deed and specialty not enumerated	-	-	10

4th. *Resolved*, That there ought to be an addition of fifty per cent, to the duties now payable by law on carriages for the conveyance of persons.

5th. *Resolved*, That the sum of five millions of dollars ought to be obtained, to discharge the debt due to Bank of the United States, by creating a stock bearing an interest of six per cent, and irredeemable for — years; the redemption thereof to commence thereafter, and to be payable in — yearly instalments.

NAVAL ARMAMENT.

Mr. WILLIAMS said, he found the report of the Secretary of War, on the subject of the frigates, was not so satisfactory in some particulars as he wished; and therefore, in order to obtain more ample information, he moved that a resolution to the following effect might be laid on the table—which was agreed to:

“*Resolved*, That the Secretary of the Department of War be directed to lay before this House a particular statement of the sums of money expended in compensating the workmen and laborers employed upon the frigates, and also an account of the emoluments received by agents in that employment.”

The House then resolved itself into a Committee of the Whole on the resolution calling for papers from the PRESIDENT, in which it spent the remainder of the day.

FRIDAY, March 18.

A bill from the Senate for the relief of certain clerks who were in the service of Government

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Breach of Privilege.

[MARCH, 1796.]

during the time of the yellow fever, and the widows of such as died during that calamity, was read a first and second time, and referred to the Committee of Claims.

The bill for the relief of invalid pensioners was read a first and second time, and ordered to be engrossed for a third reading on Monday.

The report of the Committee of Elections on the petitions against the election of DAVID BARD and JOHN SWANWICK, which were in favor of the sitting members, was agreed to.

BREACH OF PRIVILEGE.

The report of the Committee of Privileges in the case of JAMES GUNN and F. FRELINGHUYSEN, was taken up. The report is as follows:

The Committee to Privileges, to whom were referred two letters, one from James Gunn, a Senator of the United States for the State of Georgia, the other from Frederick Frelinghuysen, a Senator of the United States for New Jersey—together with certain papers presented to the House by Mr. Baldwin, a member for the State of Georgia—report:

That they have, according to order, taken into consideration the subject referred to them. That, after their appointment, they received a letter from Frederick Frelinghuysen, a Senator for the State of New Jersey, which is herewith reported. That it appears to the committee, from a view of all the circumstances attending the transaction referred to them, that the same was a breach of the privileges of this House, on the part of James Gunn, a Senator from the State of Georgia, and Frederick Frelinghuysen, a Senator from the State of New Jersey. That the several letters addressed to the House by the said James Gunn and the said Frederick Frelinghuysen, together with that addressed by the latter to the Committee, and herewith reported, contain apologies and acknowledgments, on the occasion, which ought to be admitted as satisfactory to the House. And, therefore, that any further proceedings thereon are unnecessary.

A letter from Frederick Frelinghuysen, a Senator for the United States from the State of New Jersey, to the Chairman of the Committee of Privileges.

PHILADELPHIA, March 17, 1796.

SIR: Understanding that the application of Mr. Baldwin, with the papers thereto relating, has been referred to the Committee of Privileges, of which you are chairman, and being desirous that there should be no room for doubt as to the motives of my conduct in this transaction, I take the liberty of stating that the Letters No. 1 and 2 had passed between Gen. Gunn and Mr. Baldwin without my privacy, and previous to my knowledge of any controversy between them; that, I have no interest of any kind in this dispute; and that, on the morning of Friday last, I first took a part in this unpleasant business, from a pure desire to effect a reconciliation between the parties.

I further declare, sir, that I do highly respect the privileges of the House of Representatives; that I am incapable of intentionally violating them in the smallest degree; and that I do most sincerely regret that any part of my conduct may, in this respect, admit of an unfavorable construction. I am sir, your most obedient servant,

FRED. FRELINGHUYSEN.

To the Hon. Mr. MADISON,

*Chairman of the Committee of Privileges
of the House of Representatives.*

The report being read, together with Mr. FRELINGHUYSEN's letter—

Mr. BALDWIN said, that, as the direction which this subject had taken had been of his own choosing, and as he did not allow himself, in the place where he then stood, to do anything hastily, or, as he trusted, through the influence of any improper passion, his respect for the House obliged him to state to them the grounds of his conduct. The reasons of his adopting the course which he had pursued, were, that he was on this occasion, as he usually was on all occasions of his life, where he considered himself at all exposed to be misguided by his own impressions, guided by the advice of those who, from their character and their relation to him, could have no inducement to mislead him. It had been among the first maxims of his life, whenever any thing occurred, which, upon the principles of our nature might be likely to disturb the true and proper exercise of those faculties which ought always to guide us, or at all to interrupt the medium through which objects presented themselves to us, in such cases not to trust his own optics, or rely on his own views, but to repose himself entirely on the judgments of those in whom he had full confidence, and to consider himself merely executive, so far as he was master of his own advice.

He also observed, that no person could have read the letters which had been before the House, and before the public, without noticing something very peculiar and distinguishing in the present case. Does it not appear that the challenge from Mr. GUNN was to enforce a demand of private letters and papers; and that, after it had been so liberally proposed to submit them to the inspection of his friend, to take such as he thought he had a right to? In these chivalry cases, he said, there is almost always complaint of some personal indecorum or disrespect. In such a case, a person is unwilling to retire from the accusation, and take public measures on the occasion, as it would leave his own conduct undefended, and there might rest some imputation on his honor, or his veracity, or his good manners, or whatever was called in question. In the present case, there had not been even any complaint of this kind that ever came to his knowledge. It seemed to be as free from these objections as could well be conceived, and seemed to be pointed out by the occasion as peculiarly proper to be made a public use of.

The only point in this case was, whether it is ever advisable that a public use of any kind should ever be made of such transactions, or whether such things should be suffered to take entirely their own course in this country, and the provisions of our Government and the regulations of our societies so strongly enforced and repeated by all who regard the order and happiness of the country, and which have been attended with such surprising success in many parts of the country as to have almost complete effect; for where our society is mostly American, this practice has long since ceased to exist at all. Whether these regulations should all be regarded as more forms, never to be applied to use, or whether an instance ever can present

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Son of Lafayette.

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itself, in which it would be proper to apply them to the uses for which they were intended. If it were allowed that there ever might be a possible case, he believed it would not be doubted that this was one—it is of so new and strange an extent merely to enforce the demand of confidential letters.

As to the State from which he came, he must at any rate declare, that he did not think the practice required any new extent, or to be reinforced by any aid to be derived from the little influence which might be supposed to attend his example.

He said, it is also peculiarly timed. It happens at a time when much has been said on the subject of disorganization, and the apprehensions of the country have been strongly addressed on that subject; that there is great danger of our Government's being too shackling; that it is the extreme from which we are to expect all our woe; that our Government will not be sufficient to give effect to the great principles of social order.

It is an instance also which occurs among public men, and among those from whom these things have been so often feared, and therefore will be more likely to be operative in its effects. They, from the eminence of their situation, have a better chance to descry those evils at a distance which they have been so long foreboding, and ought to be the first to control them, particularly among themselves. This treatment of them will probably be more regarded by others as an example. The control, when it operates upon Senators, it is hoped, will be effectual upon others.

He had for three reasons pretty advisedly, and he believed determinately, chosen his course to pursue on this occasion. He observed again, the case was so distinguished he should not forbear to make what he thought the best and most extensive use of it. This part of it had succeeded to his utmost wish. He thought the report of the committee was proper, and was glad to be informed that it was unanimous: it was all that could be done or expected on the subject in this place. This House is certainly not a place for punishment; and though the testimony of their disapprobation comes with great weight, yet confession of error with promise of amendment, and on some occasions a public reprimand, makes atonement for everything. He was sure, in this case, the latter would be improper: he certainly never desired or expected it. So far as it concerned the relation to this House, it has done all that he could have wished: he felt perfectly satisfied.

The other relation which it regards, (he meant its relation to society,) is not less important, and should not less claim his attention.

It had been, he said, suggested to him, and it appeared probable to himself, that the personal risks to which he exposed himself, in the manner in which he had chosen to treat the subject, were greater than he could have encountered on any alternative. He could only say, that if he knew himself, such considerations would always have as little effect upon him as upon any man. He did not believe it was possible for an address to be made to his fears which should prevent his doing

what he thought to be his duty. Instructed and prompted, he said, as he was at present, nothing but the loss of his life or the interruption of his natural powers, should prevent or delay him, on this occasion, from giving full effect to all the regulations on this subject which our society has seen proper to appoint.

The report was then agreed to.

THE SON OF LAFAYETTE.

Mr. LIVINGSTON called up the resolution, laid upon the table some days ago, respecting the son of Major General Lafayette; which, after a few observations, and an alteration in the form of it, was agreed to, as follows:

"Information having been given to this House that a son of General Lafayette is now within the United States—

"*Resolved*, That a committee be appointed to inquire into the truth of the said information, and report thereon; and what measures it will be proper to take, if the same be true, to evince the grateful sense entertained by this country for the services of his father."

Ordered, That Mr. LIVINGSTON, Mr. SHERBURNE, and Mr. MURRAY, be appointed a committee, pursuant to the said resolution.

The House then resolved itself into a Committee of the Whole, on the resolution calling for certain papers from the *PRESIDENT*, which occupied it the remainder of the day, when the House adjourned till Monday.

MONDAY, March 21.

THOMAS SPRIGG, from Maryland, appeared, was qualified, and took his seat.

The petition of the Inspectors of Philadelphia, who were in the service of Government during the yellow fever, and the widows of those who fell sacrifices to that disease, praying for a compensation similar to that asked by the Clerks in the public offices during that time, was read and referred to the Committee of Claims.

Mr. SWANWICK informed the House that he had a letter in his hand which had been received from an American sailor, named Andrew Donaldson, by his brother William in this city, who had been pressed on board a man of war in England. As there was a committee appointed to adopt measures for the relief of that ill-treated class of their fellow-citizens, he should move that that letter should be referred to that committee, as it would not only be an additional proof of the distresses experienced by their seamen, but also show the inadequacy of the Consuls at present in that country to the assistance necessary to secure their seamen against British cruelty. It was referred accordingly.

A bill authorizing the Secretary of War to place certain persons therein named on the pension list, was read a third time and passed.

A bill for the relief of Henry Messoniere was read a first and second time, and ordered to be engrossed for a third reading to-morrow.

A bill for continuing in force an act for ascertaining the fees in Admiralty proceedings in the

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Pay of the Army.

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District Courts of the United States, and for other purposes, was read a second time, and ordered to be engrossed for a third reading to-morrow.

Mr. SEDGWICK wished the unfinished business to be put off, to take up the report of the Committee on Elections on the election of Mr. VARNUM; but, on its being objected to, it was suggested that Mr. S. would do well to inform the House of the substance of the resolution which he intended to bring forward, which he accordingly explained; and it was, that the report should be recommitted, and that the committee should ascertain a proper mode of taking evidence in the case.

The order of the day, on the resolution calling for papers from the PRESIDENT, was again taken up, and, after making some progress, the Committee had leave to sit again.

Mr. LIVINGSTON wished the House then to enter upon the bill for the relief of American seamen, as not likely to take up much time, and as calling for immediate attention; but the lateness of the hour was urged as an objection, and that it was probable considerable discussion would take place upon different clauses of the bill.

TUESDAY, March 22.

The memorial of Jacob Broome, of Wilmington, praying that certain duties may be taken off cotton manufactured in this country, and that an additional duty may be laid on imported cotton; and the petition of the Clerks in the Treasury Department who were in the service of Government during the yellow fever, for recompense for their services, were severally read, and referred, respectively to the Committee of Claims and to the Committee on Commerce and Manufactures.

A bill for the relief of Henry Messoniere, and a bill for continuing in force a bill for ascertaining the fees in Admiralty process in the District Court, and for other purposes, were read a third time and passed.

The Committee of Revision appointed to inquire into the number of Clerks employed in the different public offices, reported the number employed in each, their services, and the sums paid to each; and that, after due inquiry, they found an additional number wanted, in order to facilitate public business.

Mr. NEW, Chairman of the committee appointed to prepare a bill for laying certain duties on carriages for conveying persons, and for repealing a former act for that purpose, presented the bill; which was read twice and ordered to be committed to a Committee of the Whole on Monday next.

The House then took up the order of the day on the resolution for calling for papers from the PRESIDENT relative to the British Treaty, on which they spent the remainder of the day.

WEDNESDAY, March 23.

Mr. GOODHUE, from the Committee of Commerce and Manufactures, presented, according to order, a bill authorizing the erection of a lighthouse

on Baker's Island, in the State of Massachusetts; which was read the first and second time, and committed to a Committee of the Whole House to-morrow.

Mr. SAMUEL SMITH, from the Committee appointed, presented, according to order, a bill declaring the consent of Congress to a certain act of the State of Maryland, and to continue an act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island, and Providence Plantations, so far as the same respects the States of Georgia and Rhode Island, and Providence Plantations; which was read the first and second time, and ordered to be engrossed and read the third time to-morrow.

Mr. GOODHUE, from the Committee of Commerce and Manufactures, presented, according to order, a bill for the relief of George Knowel Jackson; which was read the first and second times, and ordered to be engrossed, and read the third time to-morrow.

PAY OF THE ARMY.

Mr. DEARBORN said, there was reason to believe that the Army had not been paid according to the act which had been passed that they should not be more than two months in arrears. There was ground to believe, he said, that they had been much longer in arrear; he wished, therefore, an inquiry might be made into the reason of the neglect, in order to remedy the evil. He therefore submitted a resolution to this effect, viz:

"Resolved, That a committee be appointed to inquire whether that part of the act, entitled 'An act, in addition to an act making further and more effectual provision for the protection of the frontiers of the United States,' which requires that the Army be paid, in future, in such manner that the arrears shall at no time exceed two months, has been complied with; and, if not, from what cause the failure has arisen."

The resolution was agreed to, and—

Ordered, That Mr. DEARBORN, Mr. SAMUEL SMITH, and Mr. GILMAN, be appointed a committee, pursuant to the said resolution.

The House then took up the resolution calling upon the PRESIDENT for papers in relation to the late Treaty, and spent the day therein.

THURSDAY, March 24.

The engrossed bill, declaring the consent of Congress to a certain act of the State of Maryland, and to continue an act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations, so far as the same respects the States of Georgia and Rhode Island, and Providence Plantations, was read the third time and passed; as was also the bill for the relief of George Knowel Jackson.

A message was received from the Senate, returning the bill for ascertaining fees in Admiralty proceedings, with amendments, in which it desired the concurrence of the House.

The House then took up the resolution calling upon the PRESIDENT for papers in relation to the Treaty with Great Britain, when the question

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was taken upon the resolution and carried—yeas 62, nays 37; and a committee was accordingly appointed to wait upon the PRESIDENT therewith. [For the entire debate upon this subject see *ante*, from page 426 to page 783.]

Mr. HARPER laid on the table a resolution to the following effect:

“Resolved, That provision ought to be made by this House for carrying into effect the Treaties lately concluded between the United States and the Indian tribes, with the Algerines, and with Great Britain.”

THURSDAY, March 25.

Mr. LIVINGSTON informed the House that the committee appointed to wait upon the PRESIDENT, with the resolution passed yesterday, requesting certain papers relative to the Treaty lately concluded with Great Britain, had, agreeably to their appointment, waited upon the PRESIDENT therewith, and received for answer, “that he would take the request of the House into consideration.”

A bill making certain provisions respecting the Circuit Courts of the District of North Carolina, originating in the Senate, was twice read, went through the Committee of the Whole, and the House, and was then read a third time.

The amendments made by the Senate to a bill for continuing in force an act to ascertain the fees in District Courts in Admiralty proceedings, were read and agreed to.

The report of the committee to whom it had been referred to inquire whether any, and what alterations ought to be made in the present Military Establishment, was read, which recommended that the present Military Establishment ought not to exceed 3,000 men. The report was read a second time, and ordered to be committed to a Committee of the Whole on Monday.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
of the House of Representatives:*

I send herewith, for your information, the translation of a Letter from the Minister Plenipotentiary of the French Republic to the Secretary of State, announcing the peace made by the Republic with the Kings of Prussia and Spain, the Grand Duke of Tuscany, and the Landgrave of Hesse Cassel; and that the republican Constitution, decreed by the National Convention, had been accepted by the people of France, and was in operation. I also send you a copy of the answer given, by my direction, to this communication from the French Minister. My sentiments, therein expressed, I am persuaded will harmonize with yours, and with those of all my fellow-citizens.

G. WASHINGTON.

UNITED STATES, March 25, 1796.

The Message and Letter were read, and ordered to lie on the table.

The House then went into a Committee of the Whole, on the report of the Committee of Elections on the petitions of certain citizens of the second district in the State of Massachusetts, against the election of Mr. VARNUM. After considerable

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debate, the Committee rose, and had leave to sit again.

MONDAY, March 28.

A letter to the SPEAKER from Mr. GABRIEL DUVAL, one of the members for the State of Maryland, was read, by which he resigns his seat in the House of Representatives, in consequence of his being appointed a Judge of the Supreme Court of that State.

A bill from the Senate, entitled “An act supplementary to an act to provide a Naval Armament,” was read twice, and ordered to be committed to a Committee of the Whole to-morrow.

Mr. W. SMITH, Chairman of the Committee to whom was referred the Land Office bill, reported a new bill, which was twice read, and ordered to be committed to a Committee of the Whole on Wednesday.

AMERICAN SEAMEN.

The bill for the relief and protection of American seamen was read a third time, and the blanks filled up; the one allowing the PRESIDENT to receive a certain sum annually, for the purpose of paying the agents, &c., was filled up with fifteen thousand dollars; that for the price which sailors are to pay for certificates with twenty-five cents; that for a penalty on sailors buying or selling certificates with fifty dollars; and that for a security to be given by masters of vessels with four hundred dollars.

When the motion was about to be put on the passing of the bill, Mr. LIVINGSTON said he hoped the bill would pass unanimously; if not, he should wish to have the yeas and nays taken upon it. But the SPEAKER informed Mr. LIVINGSTON that no condition could be made on the subject; he made the motion which was carried.

Mr. COIT rose and said he was against the passing of the bill. The bill, he observed, had been introduced and carried thus far with such a flame of patriotism, that he felt some reluctance at expressing an opinion against it; but being persuaded of its impropriety, he would not give a silent vote upon it, even though he should be alone in his opposition. There could be no doubt that American seamen had been impressed and very grossly abused. Every member in that House, he doubted not, was disposed to adopt measures for their relief; they differed only as to the means of accomplishing the object. It appeared to him that the first part of the bill which directed that certain agents should be appointed was extremely improper. The PRESIDENT was better capable of judging than the House could be of the propriety of sending agents, and he had ample powers for the purpose without any Legislative interference, unless as to the expense. If the PRESIDENT, indeed, was inattentive to his duty, there might possibly be a propriety in stimulating him to it, but no gentleman accused him. Conceiving, therefore, that it was an improper interference in that House to direct the PRESIDENT what he should do in that respect, he should oppose the measure;

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he thought nothing farther was necessary to be done by them than to appropriate a sum of money for defraying the expense. So much for the first part of the bill; on the latter, he objected to the manner of obtaining evidence of who were American citizens. He thought the proposed plan too loose. Difficulties had presented in contemplating the subject in the Legislature before, but on the one hand the proof of citizenship should be rendered so strict as to make it hard to obtain, and on the other so loose that it would not be expected that it would be regarded: he did not know that the difficulty could be removed without a Convention between the two nations for the purpose. The evidence required by the present bill was of several kinds; it might be reduced to one. A sailor must go with one credible witness before any Justice of Peace on the Continent, and swear that he is a citizen; that he was born in America, or that he resided there in the year 1783, and the evidence is complete. This he thought too broad a mode, and liable to abuse; foreigners coming but yesterday into the country might take advantage of it. What is to be the effect of these certificates? The naval officer is to enter the persons who receive them in a book as citizens of the United States, of which their certificates are to be full proof. He believed these certificates would have little effect to secure against foreign impressment; yet, apprehending they would have as much respect paid to them there as at home, he thought we could have little cause to complain about it, and who would say that these certificates would be deemed complete evidence of citizenship here? if there were such evidence this bill would supersede all other regulations with respect to naturalization.

Mr. LIVINGSTON said the objections which were now urged had been made in a Committee of the Whole on this subject. They were not then thought to have sufficient weight; nor did he think they would have greater effect now than they had then. With respect to the first objection, that the business of creating offices to be filled by the PRESIDENT for carrying into effect this bill, was an encroachment upon the Executive department, as all relations with foreign States must be managed by the PRESIDENT; and that, therefore, the present bill would be a kind of reproach upon the PRESIDENT. A slight recurrence to the Constitution would convince gentlemen that the PRESIDENT had no such power. He read the clause in the Constitution, wherein it is stated that the PRESIDENT shall appoint Ambassadors, other public Ministers, and Consuls, &c., and insisted that the agents proposed to be employed under this act did not come within the description of officers above enumerated; and, if not, the PRESIDENT had no right to appoint such until authorized by law to do so. As to the proceeding being a reproach of the Executive, he did not think it necessary to go into that inquiry, it would have no tendency to harmonize the different branches of Government; but this he knew, that the most violent and oppressive abuses existed. If an investigation might raise animosities, let them avoid

it. They knew it was in their power to remedy the evil, and should they not do it, because it might throw an oblique censure on the PRESIDENT? Mr. L. said the fact proved that the PRESIDENT understood the Constitution as he did, for otherwise their sailors would ere now have been relieved; but he waited for the instruction of that House in the business. With respect to the objection against the mode of taking evidence, that it is too loose, and that respect will not be paid to it by foreign nations, and to the question could they blame them if they disregarded it? He was sorry to hear such a question put in that House. Yes, exclaimed Mr. L., they could blame them; they ought to blame them, and remonstrate with them, whenever they took their men. The gentleman's reasoning seemed founded on a right in foreign nations to seize their men, and to take them on board their ships, whilst every such act was founded on the grossest violation of the rights of nations. He had, on a former occasion, shown that every man sailing under the American flag, whether he was a citizen or otherwise, was entitled to their protection; he still maintained the same opinion, and could demonstrate it to the satisfaction of every gentleman in that House; the vessels of the United States, he said, were as much the Territory of the United States, as the ground of the Territory itself. Where, then, was the right to plunder their ships? The mode of taking testimony, he thought, had been better guarded than they had a right to make it. They were not arguing whether the British had a right to take their men; but they were pointing out a method of designating American seamen. We are weary, said he, of their oppressions; and when they see us determined to defend and protect our seamen, they will beware how they offend a great nation; they possessed the means of doing this. He believed their enemies knew it, (for he could not call a nation who used them as a foreign nation had done by any milder name.) It was on this account that he wished the bill to pass unanimously—to show them that the energy of Government would be called forth to protect their injured rights.

Mr. MURRAY said he should vote for the bill. It had always been a favorite with him, and he gave credit to the gentleman from New York for having brought it forward. He thought the object a laudable one; not that he believed it would be completely attained, as the subject-matter of it related to laws over which they had not complete control—the Laws of Nations. The experiment will give the result. He questioned whether they should be enabled to place seamen in a situation to which they were entitled. It could only be attained by perseverance in negotiation. One principal motive of the bill was, that sailors might be in the habit of obtaining evidence of their citizenship. Not that he expected anything which they could do would force foreign nations from practices which they had been so long used to. One part of the bill he had his objections to; he meant the amendment which rendered citizens of neutral nations as much objects of protection as their

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own citizens. The arguments used for its introduction, and pursued by the gentleman from New York, are, in the latter gentleman's own words, (which he considered as somewhat too strong a figure) that their ships at sea were as much their Territory as their land. He knew that such an idea might be found in books, but it could not be carried into effect. If he supposed one of their vessels at sea a part of the Territory of the United States, one-half of the rights at present possessed by belligerent nations would be destroyed. The ships of nations at war had a right to search the ships of neutral nations, to see whether they had enemies' property on board, and if they found such to claim it. However he might wish to see the rights of nations established, he did not think they could be carried to the extent proposed. If the amendment made by the gentleman from Virginia passed with the bill, it would be cutting the United States out a great deal of business. He wished to confine their protection to their own citizens at present, and as they grew in strength they might then endeavor to protect neutrals. This part of the bill he objected to as being brought forward at a time by no means favorable to an endeavor to increase their national rights. He did not wish at present to interfere with disputable rights. He was afraid the gentleman from New York would find his third distinction of citizens (*viz.*: those who have come to this country since 1783) attended with immense difficulties, as the British would not allow the claim—for they claimed such as their own subjects.

Mr. LIVINGSTON rose to justify the figure he had made use of in calling their ships at sea as much their Territory as their land. He restricted it, he said, to the taking neutral sailors from on board their ships, and this he yet maintained. It had been said that it was improper to extend their protection at present to the natives of other countries on board their ships. He had never before heard it questioned that neutrals on board their ships had not the same right to protection with their own citizens. What right did any two belligerent Powers possess over neutrals sailing in neutral ships? What right had the British to take a Dane or a Swede from an American ship? What nation ever pretended that they had a right to take foreigners out of neutral ships? And if never pretended to, why object to that part of the present bill which allows them protection? He was told that difficulties would arise with respect to one description of their citizens: if they did, he said, the blame would not be theirs, and it would be a subject for future discussion.

Mr. SWANWICK wished to make a few observations on the bill before them. It was not expected, he said, that any measure could be so provided for the relief and protection of their seamen as that it should not meet with objections from some members in that House; but he could not help praising the candor of gentlemen who, though they did not approve of the bill in all its parts, agreed to give it their vote. He did not himself think the bill wholly perfect, but he thought it advisable, by all means, to pass it. He did not expect entire relief

to be afforded to their sailors from the appointment of the agents proposed. The account which would be in future kept of their seamen would be found to be of the greatest advantage. It was necessary that every maritime State should know the number of their seamen, as upon them, in a great measure, depended their strength; and it was impossible to ascertain this in any other way than by the register of certificates proposed to be kept. The certificates which would be issued would be descriptive of the kind of citizenship of its possessor, and would show which of their citizens were respected and which were not. If the British pay a greater respect to natives than to foreigners, it will be an encouragement to American seamen. Merchants will take apprentices, and endeavor to raise native seamen, since no dependence could be placed upon foreigners. A great deal of the effect of this bill, Mr. S. said, would depend on the unanimity with which it passed. He hoped it would be seen that when a bill came before that House for the protection of their seamen that it was not carried by the voice of a majority only but by an unanimous vote.

He did not mean to throw out any insinuations against any branch of the Government in this business. He did not think that would answer any good purpose. It was their object to inquire out their own duty, and to do it. Their table was crowded with letters to prove the impressment and ill-treatment of their seamen. They were called upon to afford them relief, and it would always be an honorable business for that House to step forward to relieve the distresses of their fellow-citizens; they held the purse-strings of the nation, and they could not loosen them for a better purpose than to relieve such of their fellow-citizens as essentially needed their aid. He hoped, therefore, other gentlemen who might not think well of every part of the bill, would feel for the objects of it, and follow the example of the gentleman from Maryland in giving it their vote.

Mr. GALLATIN felt, at first, a reluctance in giving his assent to the present bill, because it laid the foundation for expense in a department, in which expense had already been too great, and in the next place, because it did not put the efficient power in the Executive; but, notwithstanding these objections, he should give his assent to the bill. Their present situation was well understood. It was a fact well established, that officers under the authority of Great Britain had impressed American seamen from on board their own vessels. This, it could not be denied, was a violation of the Law of Nations, and an act of hostility; and, when an act of hostility was committed against them, it was their duty, as a nation, to take notice of it either by war or negotiation. War was the last and most dangerous resource, and justifiable only when every pacific means had been tried in vain. Negotiation had been resorted to; yet they knew that no article had been stipulated in the late Treaty with Great Britain in respect to their seamen, and they also knew what was the objection to the admission of such an article. That nation said to us, "your seamen speak the same language,

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therefore there is a *prima facie* evidence that they are the same subjects." It was their duty, therefore, to set such a mark on their own citizens as to be able to make the British declare they will or will not respect American citizens. If they do respect them it will be well; if they do not, it will be asserting positively that they mean to be hostile to this country. It was necessary and proper for them to take every measure in their power to show to the world that they wish to be friends to, and at peace with, all nations, and by putting this mark upon their seamen they will have done all in their power to distinguish them from British subjects, and gain them due respect. With respect to the amendment which had been objected to, he thought it an improvement to the bill, as it left the matter to be determined by the Law of Nations whether such and such neutral sailors were entitled to their protection, and showed that they did not mean to protect any others. He should, therefore, vote for the present bill, though if a better mode could be pointed out of attaining the object in view, he would vote for it.

Mr. TRACY said he should vote against the bill, and he would give his reasons for doing so. He believed every man in that House had the same wish to afford relief to their seamen. He had long contemplated the subject. He felt disposed to get a bill formed of this sort; but there were several parts of this bill which were objectionable. He hoped such amendments would have been made in the bill as would have enabled him to vote for it. He thought the amendment of the gentleman from Virginia had improved the bill; but he thought the first clause very objectionable: he thought the proper way of doing the business would have been to have granted the PRESIDENT a sum of money in order to have afforded the necessary relief to their seamen. These objections, he knew, had been urged in the Committee of the Whole without effect. When they had marked their citizens, and the British still took them, it would be an act of hostility. But where should they leave those persons who were not in America before the year 1783? By exposing these men to be taken by the British, should they not do as much mischief as good by the proposed regulation? The British never pretend to take native Americans, but they will doubtless continue to take their own subjects when they find them in American ships. Our citizens, said he, have no right to go into another nation, and expatriate themselves. Nothing was more clear, from the nature of the thing, and from the Law of Nations. He considered it as one of the first laws of society for the natives of a country to be bound to defend it, and that they ought not to leave it when it needed their assistance. This was a critical situation with Great Britain, and it might be expected they would take every means in their power of strengthening their hands. That the American sailors who had been unjustly impressed should be relieved he anxiously wished, but he believed the present bill was calculated to do more mischief than good, and therefore he should oppose the passing of it.

Mr. S. SMITH said the gentleman just sat down

had justly said that citizens were bound to give their assistance in defending their country, in critical situations. But might not their sailors say, with good reason, when they were called upon, "Have you any right to expect our assistance when you have never stepped forward to protect us?" It would have been no more than candid in that gentleman and his colleague from Connecticut, when the bill was in its proper stage, to have endeavored to amend it. They could not promise themselves a perfect bill, but they wished to make it as perfect as possible. The gentleman from Connecticut had said there was no way of settling the business, but by a Convention between the two nations. A Convention had been tried, but they looked in vain for an article in the Treaty which had been entered into in consequence of it. Perhaps for the want of a bill of this sort, their negotiator could not get an article introduced on this head. He was told that negotiations were yet pending; if so, this bill would probably be the means of obtaining some stipulation in behalf of their sailors. How were they situated at present? Merchants were at the expense of procuring protections for their sailors, which were generally respected. How much more, then, would the certificates proposed to be granted under this act be respected? These certificates were also necessary, he said, to protect their seamen with respect to the Algerines; for, if they looked into the late Treaty, they would find that their sailors were liable to become slaves to the Algerines if they were possessed of no certificates of their citizenship. If gentlemen had any fears, that these passports might bring them into a disagreeable situation with respect to Great Britain, they would see the necessity of them with respect to the Algerines. He did hope the present bill would have passed unanimously; as the more unanimous they were in their determination to protect their seamen, the more Britain would respect them.

Mr. MADISON wished every part of the present bill to be as free from objection as possible: nor could he discover any palpable deficiency in it. Its provisions, he believed, might be divided into three classes, viz.: that which directs agents to be appointed; the next to seek redress, according to the Law of Nations, in behalf of American citizens; and also all other persons sailing under the American flag, conformably to the Law of Nations. If gentlemen recollect that the agents are only to take an account of all persons impressed, and make representations thereof from time to time to the PRESIDENT, it will be seen that they have nothing to do with expounding the Law of Nations in such cases. The Executive will have the opportunity, as he ought to have, of determining which are entitled to their protection and which are not entitled to it. With respect to neutral seamen, it appeared to him consistent with the Law of Nations, and of great importance to the national interest, that they should be protected equally with their own citizens. It was before observed, that when war takes place in Europe, that the seamen of that country find their advantage in seeking employment in American vessels; therefore, if

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they meant to pursue their own interest, they would afford such men protection. And there was no ground to doubt that if a neutral seaman should be impressed from on board an American vessel that an application for redress would be as likely to meet with success, as if he had been a native American. In the first place, no nation could have the pretence of a right to seize neutral seamen more than natives; in the next place they would be easily distinguished from their own subjects, when Britain was the adverse party; and in the last place, an injury done to them would not only be an injury done to the American nation, but also to the nation to which such seamen should belong. With respect to native Americans, and citizens before the year 1783, there can be no doubt of their being respected, provided they are furnished with proper certificates. It was true that it had never been avowed by Great Britain that she would impress American citizens from American vessels. Yet it was a fact that such had been impressed when they have been without protection, as subjects of Great Britain. He understood that it had been insisted upon as an essential proof that the captain of a vessel shall make oath to the fact, which could not be done, in many cases. If therefore, they could give to their seamen any testimony which may secure them from violence, it was incumbent upon them to do so, and this bill did no more.

Mr. GILES said that part of the bill which was objected to with respect to neutral sailors, was regulated by the Law of Nations, and therefore could not be objected to. It was asked by the gentleman from Connecticut, if protections were given to the different classes of citizens, what would become of those persons who had come to the country since the year 1783? What situation were such persons in now? They were now impressed wherever they were met with. By this act they would be entitled to certificates which he should suppose the British would respect. For, though they claimed such as their subjects, there was a difference between claiming a right and exercising that right. He believed Great Britain would forbear to take from their ships such of their countrymen as had obtained citizenship in this country since the peace. The British Navigation act enacts that if any foreigner remain in their service two years, he shall be entitled to all the privileges of a British subject. He did not know that any question had been determined on the case, but he believed that the rights of citizenship would not be denied to any such person. Suppose, then, an American seaman were voluntarily to enter into the British service, and were to remain there two years, would the United States think of claiming such a person as their citizen? He believed not. For his own part, Mr. G. said, he had never been much astonished at the depredations committed upon their seamen, and the reason had been that they had never shown a disposition to repel the injuries they had received. Britain had availed themselves of the fears of this country. He believed that if they were to show an unanimity upon the subject, that she would not

extend her violations so far. He believed they might, therefore, pass the present bill, without apprehension; but whilst Britain was in want of men, she was perfectly right to get men where there was no opposition made to her practices. He trusted they should convince that nation they did not always mean to be silent under their ill-treatment.

Mr. HARPER should give his vote for the bill, not because he thought it a perfect measure, or even the best that might now be adopted, but because it appeared necessary that something should be done on this subject, and he saw no probability of agreeing on any thing more unexceptionable. This he said had always been, and he believed always would be found a very delicate and difficult subject; and whatever measures were adopted would be very doubtful in their effect. This he had no doubt would be the case with respect to the present bill. Nevertheless, he was willing the experiment should be made, because whatever was first done must be merely an experiment, and these regulations might hereafter be altered and modified as time and experience should prove to be necessary.

Before he sat down, Mr. H. said he could not help adverting to what had been asserted by the honorable member from Pennsylvania [Mr. GALLATIN,] and repeated by another honorable member from Maryland, [Mr. S. SMITH,] and he should not notice it now had it not been frequently asserted before in the House. Gentlemen had asserted over and over again, for reasons best known to themselves, that the Treaty with Great Britain contained no provision to prevent the impressment of American seamen. He wished to ask those gentlemen how they reconciled this assertion with the 19th article of the Treaty, which he read in the following words. "And that more abundant care may be taken for the security of the respective subjects and citizens of the contracting parties, and to prevent their suffering injuries by the privateers and men-of-war of either party, all commanders of ships-of-war and privateers, and all others of the said subjects or citizens, shall forbear doing any damage to those of the other party, or committing any outrage against them; and if they act to the contrary they shall be punished, and shall also be bound in their persons and estates to make satisfaction and reparation for all damages and the interest thereof, of whatever nature the damages may be." He also read the 2d clause, which provides that all captains of privateers, on receiving their commissions, shall give security not to act contrary to the article. Unless it could be proved, he said, that an American seaman could not be an American citizen, and that impressment was not an outrage, this article makes complete provision against the impressment of American seamen; and yet gentlemen had thought proper to declare and repeat in the most general terms, that the Treaty made no provision against the impressment of our seamen. Seamen on board of American ships, he said, consisted of three classes: American citizens, British subjects, and neutrals. Persons may be American citizens from three

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causes; the two first of which were admitted by the British Government. They may first be American citizens because they were born in America. 2dly, They may be American citizens because they were resident in America, formed a part of the American people at the conclusion of the Treaty of Peace, by which Britain relinquished her claim to allegiance from all persons then belonging to the body of the American nation. 3dly, Persons may be American citizens from having come to reside in America since the peace and conformed to our laws of naturalization. These however Britain denies to be American citizens. She claims a right to their allegiance, where originally her subjects, pursuant to the maxim of her laws that no subject can divest himself by his own act of his allegiance. This claim is probably among the last that she will surrender, and her seamen the last class of her subjects as to whom she will surrender it. The present war, in which she has her all staked upon the contest, and where her success and security essentially depended on her naval superiority, is perhaps the period of all others when she would be most unwilling to make this concession; and the United States the last Power to whom she would make it; because they possess more means than any other Power of attracting her seamen and withdrawing them from her service. And yet because the Treaty did not, under all these circumstances, obtain a relinquishment of this point, which Britain never has relinquished, even to her best friends and most useful allies, which a regard to her own safety would forbid her to relinquish, especially at this time, it is charged with having made no provision against the impressment of American seamen, and that notwithstanding by the article which he had read, complete provision was made for all those whom she, without departing from her laws, can acknowledge to possess that character.

Mr. H. repeated that he was one of those who thought the experiment intended by this bill ought to be made; because it is clear that many of our citizens stand in need of some farther aid, which it was our duty to give them, and no fear of inconvenience or prospect of gain could authorize us to neglect a duty. He had no doubt that this provision would operate to the disadvantage of our commerce. A great proportion of the seamen on board of our ships were British subjects, even according to our laws. A number of those claimed by us as citizens under our naturalization laws, were by the laws of Britain to be considered as her subjects. These two classes, he believed, composed nine-tenths of the seamen from the port of Charleston, and probably from most of the ports south of the Delaware. In the northern and eastern ports the proportion was smaller, but in all very considerable. Protections given to the native seamen would render the other classes more exposed, by drawing a clear and decided line; and would probably not only occasion but authorize a greater number of impressments of seamen from on board of our ships than now take place, and in that manner render our merchant service less secure and less desirable to foreign seamen, and in-

crease the difficulty of manning our ships. But notwithstanding this disadvantage, we owe protection to our citizens and must give it. And to secure the protection provided for them by the 19th article, certificates become necessary.

Mr. COIT thought the description of officers mentioned in the Constitution to be appointed by the PRESIDENT, included all those which could be appointed for doing business with foreign nations. He referred to the appointment of different agents, Mr. Higginson and Mr. Bayard, respecting the British spoliations, to confirm his opinion, and asked gentlemen if for the appointment of those agents there had been any Legislative authority? If not, the PRESIDENT, he said, must be deemed equally competent to appoint agents for this purpose. He was far from charging gentlemen with accusing the Executive with want of attention to their seamen; if they meant to do this, let them do it; his argument was that if the power of making the appointments contemplated in the bill was placed in the PRESIDENT by the Constitution, it could not be contended that there was occasion for the provision, unless there was a want of confidence in the PRESIDENT. His other objections to the bill were founded upon the methods of receiving evidence of citizenship being too loose. He should have been obliged to the gentleman from New York, if he had answered his objections on that head; but he had not done so. That gentleman's assertion, that American ships were part of the territory of the United States, was no answer to those objections—if the assertion was true, however, it proved that there was no occasion for the bill; it can have no effect. His objection to the mode of receiving evidence was, that it would be in the power of any foreigner, provided he can get one witness to swear with him that he is a citizen of the United States, to obtain a certificate, equally with a real citizen. Would such certificate, he asked, be respected in this country, so as to supersede the regulations of the naturalization act? If not, it could not be expected that it would be respected abroad. Indeed, he apprehended more mischief than good from the bill. The gentleman from Maryland had acknowledged, that some respect was now paid by the British to the protections of seamen; but he apprehended when protections under this act should become general, (and he believed few sailors would go without them,) they would not be respected at all; and, therefore, instead of being of service, the bill would be injurious to the real American sailor.

Mr. LIVINGSTON said, it was not from a want of due respect to the opinion of the gentleman from Connecticut, if he had passed over his remarks in silence. That gentleman asked, if they could expect foreign nations to notice what they themselves should not notice? He answered, No. He said the proof required of citizenship in case of a failure of registers under this act, was the same as that required in Courts of Law, in similar cases, and the best that the committee could hit upon.

Mr. MADISON observed, that the gentleman from Connecticut seemed to think the present

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measure cast a reflection upon the Executive. He could by no means think so. He said the Executive had the power, by the Constitution, of appointing Ambassadors, other public Ministers, and Consuls; but the agents proposed to be appointed in this bill were neither Ambassadors, public Ministers, nor Consuls; they would have no rank as public characters, but be mere agents to do the business mentioned in the act; that they were not Consuls was plain, because they were sent to do business which it was said the Consuls had neglected to do. Again, he would remark that although the PRESIDENT had the power to appoint Ambassadors, other public Ministers, and Consuls, the Constitution required that the Senate should approve such appointments. But, with respect to agents, the case was different. The PRESIDENT appointed one agent, to send to the West Indies, without that consent. He supposed, therefore, that that appointment was founded on some law relative to intercourse with foreign nations; he supposed, if the power was not so derived it had been inaccurately exercised. If agents were to be employed, the offices should be created by them, money appropriated, and left to be filled by the Executive.

Mr. MURRAY said, the Constitution had placed the power in the PRESIDENT of appointing Ambassadors, other public Ministers, and Consuls; and he did not think there was a power in that House to enjoin him to appoint an agent to settle points which were involved in the Law of Nations, any more than they could enjoin him to open a negotiation, or to send a formal Ambassador. As it appeared to him that there was a doubt in the minds of gentlemen on their right to dictate to the PRESIDENT to transact business relative to the Law of Nations, he would ask, therefore, whether it would not be better that the bill should be recommitted, and undergo an alteration which should merely authorize the PRESIDENT to draw money from the Treasury for the purpose of effecting the business in question. He, therefore, moved that the bill be re-committed.

Mr. W. LYMAN hoped the bill would not be re-committed, if no better reasons were urged for the measure than he had heard. If they were about to appoint Ministers it might be objected to; but they did not designate who the agents should be, but merely that agents should be appointed, and left the PRESIDENT, to appoint them. But even if the House were to go so far as to say who the agents were to be, he was not certain that they would act unconstitutionally. They might cite the precedents of other countries where the King has a complete negative upon the Legislature, and prove frequent instances of requests of the Legislature to appoint agents or Ministers. And was it not proper that they should do this, when they had information before them which made such appointments necessary? Was it any encroachment in the present case, on the functions of the PRESIDENT, to say that agents shall be appointed? They did not know that he possessed the information which had come to them to show them the necessity of appointing these agents. He

thought that House had a right to say that a Minister should be sent to any foreign country. If the other branches of Government think differently, they will, of course, negative the bill. With respect to neutral citizens, he thought they were entitled to their protection; it was a reciprocal protection; for, if they did not protect neutral citizens, they could not expect their own citizens to be protected by other neutral nations. In reference to what had been said with respect to Great Britain's denying that their subjects had the power of becoming American citizens,—their own practice was in direct contradiction to this principle; for, he believed, if any of their manufacturers went abroad, in two or three years they became aliens, and were deprived of the rights of citizenship; and surely, if they denied men these rights at home, they could not object to their having them in another country.

Mr. S. SMITH hoped the re-commitment would not take place, as the same objections had before been urged to the bill. The gentleman from South Carolina [Mr. HARPER] had charged the gentleman from Pennsylvania and himself with saying that the Treaty concluded with Great Britain afforded no protection to American seamen. He yet said so. He had before read the 19th article of the Treaty, but he found nothing there but general words, of course, which were thrown into all Treaties. He saw the same words in their Treaty with France, which he read. And he was certain when that Treaty was made, they had no idea that the French would ever impress their seamen.

Mr. HEATH spoke in favor of recommitting the bill. He said he was a friend to the principle of the bill, but did not like some parts of it.

Mr. SWANWICK hoped the bill would not be re-committed. He did not think there was much possibility of making it better. As to the methods of taking evidence, a great deal of time had already been spent on that subject; and he did not think the objections to the first clause of the bill were sufficiently strong to warrant a recommitment. It would occasion delay, and every day the bill was delayed was an injury to their seamen. Their commerce in the West Indies would be totally destroyed, if immediate measures were not taken for the protection of their sailors. It was a little strange, that when the vote was about to be taken on the passing of the bill, the present objections should have been started. The gentleman from Carolina [Mr. HARPER] had said there was an article in the late Treaty which went to protect their seamen; if so, he said, the British had been in the habit of violating the Treaty ever since it had been made. Mr. S. doubted not this country would become rich and powerful, notwithstanding all the attempts of Great Britain to prevent it. He thought it was necessary to make a distinction between native Americans and natives of England, and that distinction would be made in the certificates granted. Why, said he, shall we re-commit this bill? Why not take it as it is, since every attention has been paid to it in its different stages to make it as perfect as they were

able? They were charged with an assumption of power. Could it be an assumption of power, he said, to prevent and relieve the sufferings of their fellow-citizens? If it was, it would be of a kind which would be readily excused. It was forced upon them by the imperious necessity of the case. To what purpose was it, said he, that we granted immense sums of money for the relief of a small number of our seamen in Algiers, if we suffer a far greater number to remain impressed in the hands of the British?

Mr. GILES thought, from the observations now made, that the gentlemen might have been absent when the subject had before been discussed. Similar objections to those now urged were made in Committee of the Whole, and if the bill were recommitted it was probable it would undergo no alteration. Gentlemen reasoned as if a majority of that House had determined wrong on a former occasion.

Mr. SITGREAVES said he would trouble the House with a few observations. He had seconded the motion for a re-commitment, and would give his reasons for having done so. He had no objection to the last five sections of the bill, nor on the score of expense; but he objected to the first clause, as an unconstitutional and very unnecessary encroachment on the powers of the Executive. He believed that the agents proposed to be appointed by this act would be public Ministers, according to the meaning of the Constitution. He believed complete power was vested in the PRESIDENT, and that his power could not be confined or enlarged by that House. He thought the same purposes might be attained in another way. He was not less a friend to seamen than the gentleman who brought forward the present bill, or those who supported it. The PRESIDENT has unequivocally the authority to name agents for effecting the business in question. Perhaps, the reason he has not done it, has been owing to the want of funds. Indeed, gentlemen had shown they were insufficient. The Consuls in England, it appeared, had no pay. Let a sum of money be appropriated for the purpose of relieving their seamen, and placed in the hands of the PRESIDENT for the purpose. He can employ the present Consuls to do the business, or appoint special agents for the occasion, as he judges best. He did not wish that House to do more than the Constitution empowered them to do. If unanimity was desirable in this business, he thought it might be attained by striking out the first section of the bill; but, conceiving that, as it now stood, it was an encroachment upon the prerogative of the Executive, and conceiving also that that House had already shown too much disposition to extend their power, if the bill was not re-committed, he should vote against it.

Mr. PAGE thought the motion for re-commitment was made in strict conformity to the rules of the House; but that rule was intended to be applied to cases where there was some unforeseen defect in a bill, and a probability of its being removed by a re-commitment; but there was, in his opinion, no probability of the amendment tak-

ing place; it had repeatedly been shown to be improper. He confessed he had no expectation of unanimity on the proposed amendment, for those gentlemen alone could vote for it, who thought that House a cypher, and the authority of the PRESIDENT unlimited in making Treaties, carrying on negotiations, and appointing ambassadors and agents. He hoped the House would think with him, that, although the PRESIDENT had a right to make Treaties, to appoint Ambassadors and Ministers, he had not a right, capriciously, to make Treaties, without the previous advice of the Senate; and that even in some instances he ought not to treat without the wish or consent of that House and the people. When a Treaty was to be made the PRESIDENT was to make it; when an Ambassador or agent was to be appointed, he was to appoint him; but the PRESIDENT himself, he believed, thought that he had no Constitutional authority to appoint such agents as the present bill proposed, or, he had no doubt, that he would have appointed them. As to what the PRESIDENT thought, however, it was totally immaterial to that House, for the Constitution gave them a right to think for themselves; it taught that House to disregard his reasons, unless more than one-third of both Houses should be convinced by them—a folio volume of his reasons would have no weight according to the Constitution. But he did believe, that, from the PRESIDENT's conduct, he himself did not suppose he possessed the powers which the friends of the recommitment supposed he possessed. Mr. P., therefore, said he should vote against the recommitment, and hoped the bill would pass, as it would afford the PRESIDENT the means, in some degree, of protecting our sailors against the piratical insults to which they were now so cruelly exposed, and would show a disposition in that House to lend its aid, and that aid, it was known, might be applied, as upon a former occasion, if necessary, more effectually than by declaring war, even if the United States had at sea a powerful fleet of ships of the line.

Mr. COIT said he had seconded the motion of recommitment, not with an idea of defeating the bill. He believed it would pass, nor did he expect to be able to have it so amended as to meet his own ideas; but he thought a principal objection might be removed. He thought there was no propriety in declaring by law that agents shall be appointed. The committee, in their report, merely declared, that agents would be necessary to be appointed, and that provision ought to be made for their support, and not that a law should pass for their appointment. The objects of the bill, he said, would be completely answered by making provision for their support, leaving the appointment to the discretion of the PRESIDENT.

Mr. MURRAY was sorry that gentlemen should have thought it so extraordinary that an amendment should be made at this late stage of the subject. He said, their minds had been much engaged for some time past on an important question, and he owned he had not, before to day, thought much upon the present subject. The first section of the bill appeared to him so complete an

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inroad on the duties of the PRESIDENT, that though he had intended to vote for the passing of the bill, he could not agree to do so, except that section was struck out. The bill would begin equally well with the second section. How far would this alteration affect the bill? It would only affect the first principle, which directed the PRESIDENT to send agents into foreign countries, which, in his opinion, were clearly public Ministers. Though he could hardly think of opposing the gentleman from Virginia [MR. MADISON] who was so profoundly versed in the Laws of Nation. It appeared to him that gentleman had formed an erroneous idea that the PRESIDENT was an officer of Government, and not one of its branches, springing from the same root with that House, viz: the sovereignty of the people. He had sundry rights placed in him, amongst which were the appointment of Ministers, &c., but that House were about to enjoin on him a duty, as if he was merely an officer. If the bill were recommitted, and this amendment were to take place, he doubted not that unanimity would prevail in adopting the measure.

MR. NICHOLAS observed that gentlemen had said that the present measure was unconstitutional, and therefore unnecessary. They were mistaken. If the PRESIDENT had the power he had always sufficient funds in his hands to relieve their impressed seamen; but they all know they had not been relieved. He agreed that they could rely upon the PRESIDENT as much as upon any man; but he thought it would be going beyond a compliment, to make the alteration proposed in the present bill. They were told they were encroaching on the duty of the PRESIDENT; he believed the Constitution said the contrary. The gentleman from Maryland might have spared his censures on those who supported this bill as endeavoring to narrow the Executive power; he might, with the same propriety, say, that there were gentlemen who seemed to think that there was no occasion for any other power than that of the PRESIDENT. There was no ground for such charges. So far as he knew the Constitution, the present quibble upon the article giving the PRESIDENT certain powers with respect to the appointment of public officers had no weight. It would be a nice assertion to say that offices should not be created by the Legislature; the PRESIDENT, it is allowed, has the power of appointing officers; but was there a word in the Constitution relative to the creation of officers? No; he believed all that was meant by the Constitution was, that the PRESIDENT should have the power of appointing all officers. He did not believe the agents meant to be employed under the present act, were at all of the nature of those mentioned in the Constitution as under the appointment of the PRESIDENT; they were occasional and temporary agents, to act in unison with their Consuls; and it was neither contrary to the spirit nor letter of the Constitution, as no public character was meant to be given them to the British Government.

MR. SEDGWICK had no intention of taking up much time of the Committee, though he believed

the question important, as it was, whether, by introducing a new name, they should totally alter the thing itself. If they referred to the Constitution, they would there find that all foreign relations were given to the Executive. He recollected that, in the first Congress, a bill was reported which received the approbation of the House, providing intercourse with foreign nations. It authorized no officer, it only authorized the PRESIDENT to satisfy the officers appointed by the Constitution; but it was rejected. The PRESIDENT, some time ago, appointed an agent to go to the West Indies, and was there a man who thought the appointment unconstitutional? What, then, was the meaning of Minister? It was another word for agent. Consuls and Ambassadors were Ministers; they had Ministers of justice, and the officers of all the departments of Government were Ministers also. Any man who executes an office must be called a Minister. For, if, by changing a name, that House could create new officers, the consequence would be, that the offices appointed by the Constitution would themselves be destroyed. The Government had been established for seven years, and till now he had never heard it contended that all foreign business was not vested in the Executive. There was no foreign business whatever, he said, but might be transacted by an Ambassador, Minister, or Consul. By an authority placed in the PRESIDENT and Senate by the Constitution, they were appointed to carry on all foreign relations. But, if, in this instance, said Mr. S., by the alteration of a name, you can create offices, and take from the Executive the power which the Constitution has given him, you may control the whole business of Government, as respects foreign relations, and put it in a new train. Would any man undertake to read the Constitution, and say that there was any foundation to be found there for such a doctrine as this? He declared he wished the objects of the present bill to be attained as much as any man. Indeed, he believed, most of the sailors of this country belonged to the State which he had the honor to represent. He supposed they had three times the tonnage of any other State, and their sailors were mostly native Americans. But when gentlemen begin, by declaring the existence of a power in that House to appoint Governmental agents, he must oppose the doctrine; since he was persuaded that, if there was any truth in the Constitution, it was, that the creation of Ministers of every kind was placed in the Executive. Viewing the matter in this light, it was impossible he could conform to the bill, unless that principle was conceded.

MR. S. SMITH insisted that the practice now contended for with respect to agents had been adopted in various instances, particularly with respect to Indian affairs, and could not see why gentlemen should be so tenacious of the Executive department of the Government.

MR. GILES said, the present bill was opposed on Constitutional ground. Gentlemen had declared it to be the object of the supporters of the bill by changing a name to alter the Constitution. Minis-

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ters and Consuls had been spoken of. These, he said, had always business with foreign Powers; but that contemplated in the present bill will have no such business. It was not merely the name, therefore, but the substance, which was different. They would not have the smallest relation to foreign Powers; they would be appointed to attend to their own citizens, and the only thing in which they could have any resemblance to Ministers was their residence in a foreign country. He was not surprised that there should be just now peculiar sensations in the House respecting the Executive authority; otherwise, he believed the same idea was exercised in the Indian bill before referred to. The objection was, therefore, merely a quibble arising from their present situation. At another time the circumstance would not have been noticed. He thought that great ingenuity had been used to make the objections which were urged against the bill, but which he apprehended, would have little weight in opposing the passing of the bill.

Mr. SENEWICK wished to state a fact relative to the business with the Indians, which had been introduced. When that bill was under consideration, he made a motion to strike out the number of agents to be appointed, and they were struck out accordingly. That bill, he said, was managed on the ideas which he had suggested on the present occasion. Indeed, if over there was a principle well established, it was that which he now urged.

Mr. GILBERT hoped the motion for a recommitment would prevail. Though he was as much a friend of the objects of the bill as any one, yet he was persuaded that there would be found many objections to the present bill which were not at present foreseen. But he should be willing to risk all its defects to an experiment, yet he doubted exceedingly the propriety of passing the first clause of the bill in its present form. He was not satisfied in his own mind upon the subject. But he thought it would tend to harmonize the opinions of different gentlemen if it were recommitment. He did not recollect that the objections now made, were made in the Committee of the Whole upon the resolution; he did not, therefore, consider the majority before taken as conclusive, because he thought the objection was now against the first clause of the bill.

Mr. W. LYMAN insisted upon the right of that House to create the offices contemplated by the present bill. He said they were frequently told to beware of usurping power. He could not tell what this arose from; he was sure there was as little to be apprehended from them as from either of the other branches of Government. In short, he believed there existed the loudest calls for the act in question, and believing the House had the power which they were about to exercise, he should vote for the bill. And he thought the opposition which had been raised to the measure in this late stage, had more the appearance of destroying the bill than anything else.

Mr. GALLATIN wished to mention a fact to show that the PRESIDENT was of the same opinion with

him and his friends with respect to the appointment of agents. When an agent was wanted to be sent over to Holland for the purpose of negotiating a Loan there, a letter was received by the Committee of Ways and Means, from the Secretary of the Treasury, on the propriety of appointing an agent on the occasion. But if the PRESIDENT had thought he had such a power, he would have appointed an agent, without making application to that House. It appeared, therefore, that when a special agent was to be appointed, he was not considered as a public Minister. The agent, in the case he had referred to, was to inquire who were the proper persons to execute money transactions in the Government of Holland; the agent, under the present bill, was to make inquiries respecting the impressment of their seamen. This duty would not be diplomatic, but a mere simple agency. The fact he had stated ought to repel all further objections as to the appointment of agents in this business.

The question was then taken upon recommitting the bill, which was negatived—yeas 23, nays 68.

The question was then put on the passage of the bill, and decided in the affirmative—yeas 77, nays 13, as follows:

YEAS.—Theodorus Bailey, David Bard, Abraham Baldwin, Lemuel Benton, Thomas Blount, Benjamin Bourne, Theophilus Bradbury, Richard Brent, Nathan Bryan, Daniel Buck, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clifton, Isaac Coles, Jeremiah Crabb, Henry Dearborn, George Dent, Samuel Earle, William Findley, Abiel Foster, Jesse Franklin, Nathaniel Freeman, Jr., Albert Gallatin, Ezekiel Gilbert, William B. Giles, James Gillespie, Nicholas Gilman, Benjamin Goodhue, Andrew Gregg, Christopher Greenup, Wade Hampton, George Hancock, Carter B. Harrison, Robert Goodloe Harper, John Hathorn, Jonathan N. Havens, John Heath, Daniel Hoister, James Hillhouse, James Holland, George Jackson, John Wilkes Kittera, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, Francis Malone, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, Francis Preston, Robert Rutherford, John S. Sherburne, Israel Smith, Isaac Smith, Samuel Smith, William Smith, Thomas Sprigg, John Swanwick, Absalom Tatam, Mark Thompson, John E. Van Allen, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, Peleg Wadsworth, John Williams, and Richard Winn.

NAYS.—Joshua Coit, William Cooper, Henry Glen, Chauncey Goodrich, Roger Griswold, William Hindman, Samuel Lyman, William Vans Muray, Theodore Sedgwick, Samuel Sitgreaves, Nathaniel Smith, Zephaniah Swift, and Uriah Tracy.

Resolved, That the title of the said bill be, "An act for the relief and protection of American seamen;" and that the Clerk of this House do carry it to the Senate and desire their concurrence.

TUESDAY, March 29.

Mr. MUHLBERG presented a memorial of sundry inhabitants of Newcastle, stating that they had

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erected two piers by means of a lottery, but that, owing to the advanced price of materials and labor, they could not erect a third without public aid, and prayed, therefore, that one of the four additional piers ordered to be erected in the bay and river Delaware, might be erected opposite to Newcastle.

The memorial was referred to the Secretary of the Treasury to report his opinion thereupon.

Mr. SEDGWICK presented memorials from the inhabitants of Kingston and Hancock, in the State of Vermont, against the election of ISRAEL SMITH, and in favor of the pretensions of MATHEW LYON, which were read, and referred to the Committee of Elections.

A petition was presented of sundry messengers and office-keepers in the Treasury Department, praying that they may receive additional compensation to reimburse the extraordinary expenses which they incurred in discharging their official duties, during the calamity in the city of Philadelphia, in the year one thousand seven hundred and ninety-three, where they remained at the great personal hazard of themselves and families. Referred to the Committee of Claims.

TREATY WITH SPAIN.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the House of Representatives:

I send, herewith, a copy of the Treaty of Friendship, Limits, and Navigation, concluded on the 27th of October last, between the United States and His Catholic Majesty. This Treaty has been ratified by me, agreeably to the Constitution; and the ratification has been despatched to Spain, where it will doubtless be immediately ratified by His Catholic Majesty.

This early communication of the Treaty with Spain has become necessary, because it is stipulated in the third article, that Commissioners for running the boundary line between the Territory of the United States and the Spanish Colonies of East and West Florida, shall meet at the Natchez, before the expiration of six months from the ratification. And as that period will undoubtedly arrive before the next meeting of Congress, the House will see the necessity of making provision, in their present session, for the object here mentioned. It will also be necessary to provide for the expense to be incurred in executing the twenty-first article of the Treaty, to enable our fellow-citizens to obtain, with as little delay as possible, compensation for the losses they have sustained by the capture of their vessels and cargoes by the subjects of His Catholic Majesty, during the late war between France and Spain.

Estimates of the moneys necessary to be provided for the purposes of this and several other Treaties with foreign nations and the Indian tribes, will be laid before you by the proper Department.

G. WASHINGTON.

UNITED STATES, March 29, 1796.

The Message and Treaty were referred to the Committee of the Whole on the state of the Union.

CONTESTED ELECTION.

The order of the day was called for upon the report of the Committee of Elections, on the pe-

tition of sundry inhabitants of the second middle district of Massachusetts, (complaining of an undue election and return of JOSEPH BRADLEY VARNUM as a member of this House,) asking instructions with respect to receiving evidence in that case; and the House having formed itself into a Committee of the Whole, entered upon a discussion of the resolution of Mr. SEDGWICK for recommitting the report, and directing the committee to point out a proper mode of receiving evidence in the case, a long debate took place, which, not being concluded, the Committee had leave to sit again.

WEDNESDAY, March 30.

A petition from Zachariah Cox and others, from the frontiers of Georgia, praying for a grant of money, as a loan, to carry on an intercourse with the Indian tribes, under certain conditions, was read and referred to the Committee of Commerce and Manufactures.

The bill authorizing a Loan for the city of Washington, and the bill for erecting a light-house on Baker's Island, went through Committees of the Whole House, and were ordered to be engrossed for a third reading to-morrow.

The House went into a Committee of the Whole House on the report of the Committee of Claims, to whom was referred the petition of Maria Butler; and, after some time spent therein, the Committee rose and reported the following resolution:

"Resolved, That the provisions for widows and orphans of commissioned officers of the troops of the United States, contained in the first section of the law of the United States, passed the seventh of June, one thousand seven hundred and ninety-four, entitled 'An act in addition to the act for making further and more effectual provision for the protection of the frontiers of the United States,' be extended to the widows and orphans of commissioned officers in the troops of the United States, and of the militia who have died by reason of wounds received since the fourth day of March, one thousand seven hundred and eighty-nine, in the actual service of the United States; provided application shall be made, within — after the end of the present session of Congress"

The resolution was agreed to, and the Committee of Claims ordered to bring in a bill.

The House resolved itself into a Committee of the Whole on a bill, in addition to an act for supporting of Public Credit, and for the redemption of the Public Debt; but not coming to any conclusion, the Committee had leave to sit again.

THE BRITISH TREATY.

A Message was received from the PRESIDENT OF THE UNITED STATES, in answer to the resolution calling for papers in relation to the Treaty, which was read, and ordered to lie on the table.

[For this Message, see *ante*, page 760.]

CONTESTED ELECTION.

A great part of this day's sitting was consumed by the consideration of the report of the Committee of Elections, to whom were referred the memorials and petitions of sundry electors of the second middle district of the State of Massachu-

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setts, complaining of an undue election and return of JOSEPH BRADLEY VARNUM, Esq., to serve as a member in that House.

The report of the committee was in the following words:

The Committee of Elections, to whom were referred the petitions of sundry persons of the second middle district of the State of Massachusetts, complaining of an undue election and return of Joseph Bradley Varnum, as a member of this House, have, according to order, proceeded to examine the petitions, and the documents that accompany them. They have also received from Aaron Brown, a petitioner, a paper purporting to be a specification of the facts relied on to support the charge, and praying for a general power to take evidence in support thereof; which is as follows:

"A statement of facts to be proved by the petitioners.

"1st. That one hundred and eighty-five votes were returned by the Selectmen of Dracutt, and counted by the Governor and Council."

"2d. That, of those, sixty were illegal and bad—fifty-five ballots or votes being received and certified by the Selectmen or presiding officers, of whom Joseph Bradley Varnum, Esq., was one, which were given by proxy, that is, votes from persons who were not present at the meeting, but from other persons who pretended to act for them. And five votes were received and certified by the said presiding officers, which were given by persons, by law, not qualified to vote at said meeting."

"3d. If Mr. Varnum does propose to examine the proceedings at the meetings of any other towns in the district, the petitioners wish to reserve liberty of showing that votes given for Mr. Varnum in any other town in the district were illegal.

AARON BROWN,

"For the petitioners."

On the 12th of March, 1796, the said Aaron Brown subjoined the following explanation on the above specification.

"The petitioners expect to prove that the above sixty illegal votes were received by the Selectmen, by showing that the whole number of legal voters were not more than two hundred and twenty-five; of which number, one hundred did not attend the meeting on the 23d day of March last, and a part of those that did attend and vote, were not legally qualified to vote.

"AARON BROWN."

Also the objections of the sitting member, and a requisition that the petitioners be held to a specification of the names of the persons objected to, and the objections to each, a notification thereof to the sitting member, before he should be compelled to take evidence concerning the matters alleged, or make any answer thereto.

Upon all which, as well from the difficulty of the case, as from a desire to have uniformity in proceedings of this kind, your committee have been induced to pray the instructions of the House, as to the kind of specification that shall be demanded of the petitioners, and the manner in which the evidence shall be taken.

Mr. SEDGWICK proposed a resolution to the following effect:

"Resolved, That the Committee of Elections be instructed to prescribe an efficient mode whereby evidence may be taken relative to the facts set forth in said petitions and the specifications of Aaron Brown, agent for the said petitioners."

This resolution was supported by Messrs. SEDGWICK, SWIFT, BRADBURY, AMES, THATCHER, HILLHOUSE, and JEREMIAH SMITH; and was opposed by Messrs. VENABLE, W. LYMAN, DEARBORN, SWANWICK, NICHOLAS, GALLATIN, and S. SMITH.

The principal arguments used in support of the resolution were, that the facts stated in the petitions and documents were sufficiently explicit; that the facts, if proved, were material, for, as Mr. VARNUM had only a majority of eleven votes, if twenty-three out of sixty votes charged to be illegal, were proved really so, they would invalidate the election; the possibility of proving the facts was shown in a variety of ways, and the modes of conducting the elections in the State of Massachusetts explained; that when facts were alleged sufficient to set aside an election, if proved, it was the duty of that House to prescribe modes of taking them in evidence; (several instances were mentioned in which modes of taking evidence had been prescribed;) that the names of the illegal voters could not be obtained, no list being kept of persons entitled to vote for Representatives; that the Town Clerk of Dracutt had refused to give a certified copy of the records, and none of the inhabitants of that town, from their attachment to Mr. VARNUM, would give any information respecting the election; the necessity of guarding the purity of elections was insisted upon, and that petitioners against undue returns should by no means be discouraged. It was observed, it had been alleged because petitions had a tendency to make members uneasy in their seats they should not be encouraged, but this was answered to be an ill-founded doctrine, and Mr. VARNUM was advised to come forward and challenge investigation, rather than appear to wish to stifle it.

The arguments against the resolution were, that the facts stated were not sufficiently specific to warrant any proceedings of that House upon them; that, if the votes stated to be bad were really so, their names might be obtained; that it was improper to harass electors or give uneasiness to a sitting member upon slight grounds, as if that were the case, it would be in the power of any man, from pique or any other cause, to put a member to great trouble and expense, and might prevent a man of moderate fortune from holding a seat in that House, because he was not able to bear the expense of meeting vexatious attempts to displace him. The manner of bringing forward the subject was objected to; it was said that A. Brown, the agent, had signed the petition after he came to this city; that there was no evidence of his being employed as agent, nobody was seen in the matter, but that single man, (the people of Dracutt being so satisfied as not to give him any information on the subject,) and he having left the city, the business ought to have been rejected; that petitioners ought to have all due attention paid to them, but that the sitting member ought not to be forgotten, that the House should be cautious of going into a matter of this sort, as it was making themselves a party; that they ought not to volunteer in search of evidence; that to grant the power required, would be to grant

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an inquisitorial power to swear every man in Dracutt, and, perhaps, eventually every man in the district, to the amount of three or four thousand; that the failure in getting evidence of the facts stated, was a presumptive proof none could be got; that several elections had already been contested, and it would be extremely wrong to give new birth to the contest from so slight a ground; that Mr. Brown had not been able to get facts, and wished that House to enable him to hunt them up; that it was impossible to prove the facts stated; it not being in the power of the Town Clerk or any other person, to make out a list of persons entitled to vote at the last election, as their right depended on their being worth £60, or £3 a year in any property whatever; that the Town Clerk of Dracutt opened the books to Mr. Brown, but would not himself copy anything; and that this universal respect for Mr. VARNUM, in the place where he lived, contradicted the old proverb, "that a prophet has no honor in his own country."

In the course of the debate amendments were offered by Mr. COIT and Mr. GALLATIN to Mr. SEDGWICK's resolution; but they all gave way to the two resolutions proposed by Mr. NICHOLAS, which were carried, as follows:

"*Resolved*, That the allegations of Aaron Brown, agent for the petitioners, as to fifty-five votes given by proxy, is sufficiently certain."

"*Resolved*, That the allegations of the said Aaron Brown, as to persons not qualified to vote, is not sufficiently certain, and that the names of the persons objected to for want of sufficient qualifications, ought to be set forth prior to taking of the testimony."

On Mr. COOPER's calling very pointedly upon Mr. VARNUM to come forward, he rose and said:

He did not think it necessary for him to speak on this subject. It was not very pleasant to sit there and hear gentlemen from the same State, treat him with all the personalities possible, but he would patiently submit. He asked whether Mr. Brown had not said he came forward in this business from political motives, and whether a man had not declared he had been paid to swear falsely?

These charges were denied by every gentleman who supported the resolution.

At the same time that Mr. NICHOLAS proposed the two resolutions which were passed, he proposed another respecting the irrelevancy of Mr. Brown's second statement, and after considerable debate, in which Messrs. NICHOLAS, GALLATIN, W. LYMAN, and FINDLEY supported it, and Messrs. HARPER, KITTERA, GOODHUE, TRACY, THATCHER, and SEDGWICK, opposed it, it was negatived.

And the House adjourned.

THURSDAY, March 31.

The bill authorizing the erection of a light-house on Baker's Island was read a third time and passed.

LOAN FOR THE CITY OF WASHINGTON.

The bill authorizing a Loan for the City of

Washington, and for other purposes, was read a third time; and the blanks being filled up as follows: the whole amount of the Loan to be filled up with 300,000 dollars, not more than 200,000 in any one year, and to bear interest of six per cent., reimbursable at any time after the year 1803.

The question being on the passage of the bill--

Mr. COIT declared himself against the bill. He considered it as taking so much money out of the Public Treasury, and that although it was considered only as a guarantee for payment of money borrowed on very ample funds, it would operate no otherwise than as an absolute grant. Indeed an absolute grant, he said, would be less exceptionable to him, as he considered that this bill was hanging out false colors to the public, as it would tend to hold up the idea that there was a value in the lots in the City of Washington, which he believed did not exist.

The value which had been annexed to those lots, he believed, was a mere speculating bubble. This bill might serve to keep it up a little while longer, but he believed it must finally burst. Upwards of four thousand lots, it was true, had been sold, and the public had more than four thousand on hand, which were said to be worth, on an average, 285 dollars each, these with some water lots, which are set at 16 dollars per foot, are estimated at more than 1,800,000 dollars—but, if carried to market now, it was agreed there were no purchasers for them. Mr. C. said, he had inquired into the situation of this city—he asked gentlemen to look at the map of the country, and they might judge of its situation; it was true, it was nearly at the head of the navigation of the Potomac, a noble river, and in a fine country; but there was nothing to give to this city exclusive possession of the commerce of that country, or of that river. Alexandria, a few miles below it, and Georgetown a few miles only above, on the same river, had equal advantages of situation, and had the preference of having merchants, as he was informed, with very considerable capitals, already established in them; Baltimore, at the head of Chesapeake Bay, on this side, and Norfolk, not far from the mouth of James river, he conceived, were situations, more especially considering the strength of capitals already fixed at them, far more advantageous for extensive commerce. These lots, it must be agreed, could be of no more value than other planting ground, unless there was a demand for them as building lots. If the Federal City were likely to become a great commercial place, that demand might at some future period exist, but of this he conceived there was not the remotest probability, and he believed that for the justice of this opinion, he might safely appeal to every commercial man acquainted with the situation, and not prejudiced by local considerations. What, then, he inquired was to cause a demand for these lots? The mere residence of Congress, he conceived, must go but an inconsiderable way to the forming a great city. Two or three hundred houses, at the utmost extent, must suffice for Congress and all its connexions and appendages for many years.

Mr. C. said, he had no wish to obstruct the re-

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removal of the seat of Government to the Federal City. He believed it would be removed, and he wished it, and he believed that the buildings for the accommodation of Congress must finally be made at the public expense; but he wished it to be done in an understanding and not in a covert way. Unfortunately there had already been expended between three and four hundred thousand dollars as he conceived, to what was worse than no purpose. He did not accuse any person of having embezzled or misspent the public money, except in the extravagance of the plans which had unfortunately been adopted—97,000 dollars had been expended on the President's House, and it is estimated that nearly as much more will be wanted to complete it, and when done, he conceived that a house which would cost only 50,000 would better answer the purpose; about 80,000 had been expended on the Capitol, and progress was scarcely made beyond the foundation. Gentlemen might talk of elegance, of splendor, and magnificence, for people who had money to expend for their pride or pleasure; these subjects deserved consideration, but in the present state of the finances of the United States, he thought more attention should be paid to use and economy.

Considerable revenues, he observed, were now at the disposal of the Commissioners of the Federal City. If left to use the means they had at command, he hoped necessity would oblige them to contract the extravagant plans for the buildings which had been commenced; but if the Public Treasury was once opened he should expect many future applications and heavy ones on the Public Treasury for those buildings, which, he feared, would be a lasting monument of the pride and folly of his country. He observed, that possibly he was alone in these sentiments, but he could not justify himself without expressing them, and, wishing to know if any gentleman concurred with him in opposition to the bill, closed with calling for the yeas and nays.

Mr. SPOONER said, he also should vote against the bill; he objected to its form and to its substance; to the form, because he thought it held out a delusive appearance of security to the money-lenders, and of indemnity to the United States, by professing to mortgage lots in the city of Washington, which, he contended, are not at the disposal of the Government. By the deed of trust, which had been read on the former debate of this bill, it appeared that all the lands in the Federal City had been conveyed by the individuals who formerly owned them, to trustees in special trust, to wit, that so much of them as might be appropriated for streets, squares, and the sites of public buildings, should, by the trustees, be conveyed to the Commissioners [appointed under the act of 1790, for establishing the temporary and permanent Seat of Government] and their successors for the use of the United States; that the residue should be laid out in lots, one-half whereof to be reconveyed to the other granters, and the other half to be sold under the directions of the President; that the produce of the sales should in the first place be applied to the payment in money of £25

per acre, to the granters, for all the reserved lands except the streets; and that the remainder of the money or securities should be paid, assigned, and delivered over to the President of the UNITED STATES, for the time being, as a grant of money to be applied for the purposes and according to the act of Congress before mentioned. From hence Mr. S. inferred that the Commissioners, who by the bill are authorized to make the Loan on the pledge of the lots, hold no property in the city of Washington, except the streets, squares, and sites of the public buildings; that the residue of the lots are not held in trust for the United States, and of course cannot be mortgaged by them, and that the Government had only a right to the proceeds of the sales. This construction is authorized by the remarkable difference between the expression of the trust so far as relates to the lots directed to be conveyed to the Commissioners, and those directed to be sold.

It is also authorized by the provisions of the act of 1790, in careful conformity with which the deed appears to have been drawn; and which empower the Commissioners to receive grants of land for the sites of the buildings, and of money for the purpose of erecting them. It was clear, therefore, that the bill assumed too much when it undertakes to mortgage the lands, and that all really in our power would be to pledge the funds arising from the sales after they shall be paid over to the President. But if these lands are at the disposal of the United States, then, for the security of the Government, the bill should go further, and direct them to be conveyed, in the first instance, to some responsible officer of the Government. The trustees who have at present the legal title to these lands, can in no wise be considered as officers of the Government, amenable to it in a public capacity. We cannot require of them to give security for the faithful performance of their trust. We cannot impeach them for a violation of it. We have no other reliance than on the respectability of their private characters—no other remedy than a suit in chancery, as in common cases of private trusts. When they sell the land, they may pay over the money, or they may not. Even the President is not responsible in his public character until after the money comes into his hands. Mr. S. was aware that the Attorney General differed from him in the construction of the deed, and he had great respect for his opinion, yet when the propriety of vesting the lands in a responsible public officer, an additional security was suggested to the Attorney General, he hesitated and eventually declined to give the bill that shape. From these considerations Mr. S. inferred that the bill did not, in fact, give the money, or render the security it professed to offer; or, if it did, it was deficient in the provision necessary for the complete indemnity of the Government.

On these principles he objected to the form; he objected also to the substance. He did not consider the faith of the Government as pledged, by any one act it had hitherto done, to pass the present bill; if good faith imposed no obligation on them, he was sure that prudence forbade them to do it;

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by a reference to the act of 1790, no such obligation would be found to be created by it; it will appear by it that the Commissioners are empowered to purchase or accept such quantity of land within the Federal territory as the PRESIDENT shall deem proper for the use of the United States. And to provide suitable buildings for the accommodation of Congress, of the PRESIDENT, and of the public offices—and for defraying the expense of such purchases and buildings, the “PRESIDENT is authorized to accept grants of money”—there is for this purpose no appropriation of public money nor any promise of such appropriation; no guarantee, nor any assurance of a guarantee; for the expense of the removal of the public offices an appropriation is made; and this provision shows that no other expense to the Government was contemplated; those who were members of the Congress of 1790 know the fact to be so, that the proposed grants of the States of Virginia and Maryland, and of individuals, were expected to be competent to the object, and that such an expectation and assurance was a condition on which the law passed; a condition not indeed expressed in the act, but which for that reason we are not the less bound to respect; a condition the breach of which would have all the aggravation of a violation of confidence. The Government, therefore not being pledged to the object of the bill, he considered the House as restrained by every consideration of prudence from acceding to it. Any gentleman who would take the trouble, as he had done, to examine the papers on their table would discern that the extent of the city, the distribution and the plans of the public buildings, had been predicated on a scale of magnificence the eventual expense of which was not within the reach of calculation, or even of conjecture; would it be proper then for Congress by passing this bill to give ground for an opinion that the United States were to adopt and to become the foster-father of those projects? Gentlemen had affected to consider the proposed measure as one which could not involve the Government; but a guarantee implies in itself the possibility of an eventual loss; it necessarily implies a supposed deficiency in the security to be guaranteed. If the lots in the Federal City are themselves a sufficient security for the proposed Loan there could be no occasion to call in aid the faith of the Government. The bill therefore ought fairly to be considered as a grant of money on the part of the United States for the purpose of prosecuting the public buildings in the City of Washington, and if they once began to grant money for this purpose, he asked, when they were to stop? He would venture to say, never, if their grants were to keep pace with the necessities of that institution; he believed the law of 1790 never would have passed if the most solemn assurances had not been given that no such application would ever be made to the Government; and he therefore felt himself bound to oppose the bill.

Mr. NICHOLAS was not willing to trouble the House on this business. He would, however, make a few observations on what had fallen from the gentleman from Connecticut, with respect to

the value of the property. He was authorized by the Commissioner attending Congress to say, that 4000 lots had been sold for 100 dollars each, since this question had been first agitated, and it must be evident that seventy dollars a lot would indemnify Government for the amount of their guarantee. He did not expect, after an investigation had been had and report made, that Government would be safe in the advance of 500,000 dollars, that 300,000 could have been objected to because the lots could not be sold in a moment. Many things were of great value, for which purchasers were not at all times to be found. The remarks of the gentleman from Pennsylvania, on the law of this case, might, from the obscurity of the subject, he said, have some weight. He would, therefore, notice them. He objected to the form of the bill, because it was a deception of the public and might be so on the United States. The gentleman had questioned the power of Congress to control the disposition of the lots and had given it as his opinion it could not be done. Mr. N. was of opinion that the United States being alone (after the payment of 15 or 20,000 dollars to the original owners of the lots on which the public buildings are erecting) interested in the proceeds of the sale, Congress must have a control over the sales themselves. This was agreed to be the opinion of the Attorney General, who attended the committee. The gentleman from Pennsylvania had said, if this was the case the bill was wrong, for it should have required a conveyance of the lots to some responsible officer of the Government to have made Government secure. If the management is already in the hands of an officer of Government, and the management of the property can be controlled by law, we have all the security which could be obtained by the conveyance spoken of. If gentlemen attended to the bill, they would find that this property is in the hands of a responsible officer of the United States; for the trustees cannot make a conveyance but by the consent of the PRESIDENT of the United States, so that he, in effect, is himself the trustee, and they could not have better security. But he would for a moment take the gentleman's doctrine as true. What then? The PRESIDENT must be considered as a private person in disposing of the lots. It was agreed that as soon as money was received it went to the PRESIDENT, in his public character, and he was answerable for the application of it to uses prescribed by law. It would follow, that he might abuse his power in the first instance, he might sell the property for less than it was worth. If the gentleman's doctrine was true, the United States would have no tie upon the PRESIDENT to produce a fair sale of the lots, but what arises from his regard to reputation and his regard to his private fortune, which would be answerable for his conduct. He hoped there was no danger of having any man at the head of the Government on whom these ties would not be sufficient. But Mr. N. did not consider these observations as necessary, for he considered the gentleman's real opinion as unsound.

The arguments of gentlemen themselves were sufficient ground for the present guarantee. They

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say sufficient money has been given for completing the buildings, if it had been properly expended. If the property had been squandered, was it the fault of those who gave it? When gentlemen, therefore, say that enough had been given, if there were any contract, such as had been conjectured to exist, it proves it to have been fulfilled. It was said they had no claim upon the United States. But did not the United States say, "this is a proper situation for Government?" If it were to go there it was certainly because it was for the general interest, and if there were no funds, they must find them. But they were not called upon for money. They were asked to guarantee a Loan to prevent the waste of those funds which had been furnished by States and private persons. He hoped no doubt would, therefore, remain on the subject.

Mr. HILLHOUSE concurred in opinion with the Attorney General on this subject. He said the money-lenders could not call upon the United States for their money, until the lots shall have been sold, and there remains a deficiency, and there is little chance of the PRESIDENT's selling the property for less than it was worth. And though they could not control the sale of the lots, it was the money-lenders who ran the risk, and not them; nor was there any occasion for the United States to take care of the money-lenders, they would take care of themselves. The bill was now on safe ground; the sum of the guarantee having been reduced from \$500,000 to \$300,000. He was under no apprehension that the United States would even be called upon for a single shilling. And if they could give facility to the erection of the public buildings, they ought to do it. They ought not to throw obstructions in the way. He did not consider the House as pledged for any thing more in passing the present bill than the bill purported. He wished it now to pass, as his former objections to it were done away.

Mr. RUTHERFORD hoped, since the bill had been amended, it would pass by a great majority; for Congress to throw cold water upon the proceeding now, it would be unjustifiable. The minds of the people were drawn towards the Federal City, and property would advance in price; but if Congress should defeat the operations of the Commissioners, it would operate to the disadvantage of the Union.

Mr. SWANWICK said, if he thought with the gentleman from Connecticut, last up, that the United States were not likely to be called upon for any part of the money which they were about to guarantee, the measure would have received his approbation; but he did not view the subject in the same light with that gentleman. He thought they should have to pay the whole sum, and that 300,000 dollars would not be the whole of what that House would be called upon to provide, if the bill before them was passed. How could they say at what sum they should stop? Was the bill entitled "an act for providing money for finishing the public buildings in the Federal City?" No. It was "an act for guaranteeing a Loan for the use of the City of Washington." On the same prin-

ciple they might guarantee loans for all the cities in the Union. Why a Loan for the City of Washington in particular? Was there any reason why the different cities in the Union should be taxed for that city? Was it meant that Government should go through with the business, and see all interior improvements properly finished in this new city? Nothing was mentioned in the bill for which this money was wanted. Instead of finishing the public buildings, it might be used for paying, lighting, or otherwise improving the city. Mr. S. observed, that it was with Government as with individuals, the facility of borrowing money frequently led to ruin. But it was said the lots were worth a great deal more than they were asked to guarantee. He was of a different opinion, and he was afraid gentlemen would find themselves disappointed in that particular. Speculation, he thought, had been at the highest pitch. No sooner was it announced that Government was to go to this new city at a certain period, than the cry was immediately raised that commerce would flow into it from all quarters; that it would become the centre of all the property in the Union; that Ambassadors would build great seats there; that it would be every thing that fancy could picture as delightful. What was London, Paris, or all the cities of the earth compared with this city? What, said he, has been the consequence? What might have been expected and what will happen in all similar cases, public opinion with respect to this city will probably fall as rapidly as it rose. But, said he, lots in this city had been objects of bargain and sale in Europe. Gentlemen go there and say, "This is to be the greatest city on earth, the lots are, it is true, somewhat high, but they will be ten times higher." It was astonishing, he said, to see and hear the exaggerations which had been circulated with respect to this city. He himself had seen in a London paper, an account stating that there was already 7,000 houses built there. Persons in Europe, believing these representations had given high prices for these lots, in the same way as they had been induced to give high prices sometimes for very indifferent lands. Speculation now, however, being in some degree flat, it must be raised by the present bill. The public must be informed that Government will take this city upon their own shoulders, and it will be asserted that the United States will take up this city as the Czar Peter took up Petersburg. If any foreigner were to embrace this idea, would he not find himself probably miserably deceived, in the result? But, suppose the sum proposed to be borrowed were to be employed in finishing the public buildings intended for Government, how degrading would it be to go into Europe to borrow money to erect these buildings? If he had studied to find out a plan of degrading the honor of the country, he could not have hit upon one more humiliating. What would be thought at Amsterdam, when the United States were borrowing money to erect houses for the different Departments of their Government to meet in. If money was wanted for this purpose, why not raise it by taxes? The ease with which money might be borrowed had a ten-

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dency to stupify all exertion, and the end of it would be, that the whole of their revenue would go to pay the interest of their debts to foreign countries. It was the opinion of most thinking men on the subject, (and the PRESIDENT had wisely recommended the measure for four successive years) that their Public Debt should be extinguished with all possible speed. And, what, he said, was the conduct of that House? They say they will pay every attention to the subject, but still incur fresh debt. The report of the Committee of Ways and Means was before them, by which they saw how their finances stood. He feared they should soon have nothing but bills for Loans before them, from finding it so much more easy to borrow than to raise money by taxation. They were following a practice which had brought Great Britain to the brink of ruin. If the lots, said Mr. S., ever would be of value, it was now; for, in matters of speculation, the more uncertainty there was, the greater room there would be for conjecture and calculation. He thought it very improbable the property should increase in value. For when the Government shall be removed, it may be found that from the shortness of the sessions of Congress there, the advantages which they would confer would not be very great, and consequently, that much of the speculation which had been formed of the great prosperity of that city, had been founded in error. He would not be understood to say that the City of Washington might not have a gradual increase and consequence like that of any other city in the Union, but not that it would grow as it were spontaneously in the manner some gentlemen seemed to expect it. For the reasons he had mentioned, he should vote against the passing of the bill; and though the bill should be carried by a great majority, he should not regret the vote though he should be found alone on the occasion.

Mr. HAVENS said, the bill carried a refutation of the argument used in its support on the face of it, viz: that the lots are worth more than the money proposed to be guaranteed. If the money-lenders believe this to be true, there would be no need of a guarantee. This guarantee being asked for, convinced him that it was not believed that the lots would bring the money. He had taken some pains to find whether the price the land would command will be likely to repay the sum proposed to be borrowed, and could not discover any well-founded reasons for the belief. Every gentleman must be sensible that if they engaged for \$300,000, they engaged the Government for the whole sum. But what was meant when it was said that there was some kind of obligation to go to this new city at the time mentioned? He could read no such contract. The buildings were to be completed. When he was upon a committee on another subject, he made inquiry whether, if the buildings intended for Congress were not completed, they might not be accommodated in some other way; and, if his information was right, before the year 1800, there would be parts of the city finished in which they might be accommodated; or, if not in that city, in Georgetown, which lies near it? He should vote against the bill.

Mr. MURRAY would remark, that the very point in dispute had been taken for granted. It had been said, the call for a guaranteed loan indicated in itself a consciousness that the lots were not worth the sum to be borrowed upon their credit. This he would explicitly deny. On the contrary, there is a full and well-grounded conviction that the lots upon which the credit is asked would at this moment sell for more than the sum in view: and that, therefore, as mere money-lenders, the loan would be a safe bargain. It was likewise clear, almost to demonstration, that if the immediate pressure for money were removed, that must otherwise force the lots into the market, the operation of the loan, when properly laid out in the improvement of the city, will add value to the lots pledged, and thus increase the resources of the borrower in such a manner as that he not only will be enabled to discharge the sum borrowed, but also have a great and valuable residuary as a fund, from which the City of Washington, without internal taxes, may be embellished. As the United States will have exclusive jurisdiction within that city, it was deeply their concern to husband their resources so as to make them accomplish their present ends and their future objects. Expose all the lots to sale at present, and, though you will get the sum which may be immediately necessary, you strip the estate entirely of all resources in future but those of taxation. If the Government feels any interest in their own affairs, for the affairs of that city as a peculiar scene of their jurisdiction, are more or less their own, they will adopt, towards that city and its resources, those maxims which, in private, and, indeed, public character, constitute a sound economy.

He had never anticipated the support of the gentleman from this city, [Mr. SWANWICK,] but he confessed he did not expect so warm an opposition to this bill from that gentleman. He has taken great pains to discredit the value of property in the city, and has painted the city itself as an airy fiction of speculation, a mere sort of castle-building dream, such as man oversets when he rises out of bed from the reveries of the morning. It is true, he observed, that the scheme is a speculation—the whole of life and its concerns, perhaps, are no more; but it is speculation rising from a concurrence of events and local circumstances more favorable to a profitable issue, than any other that had of late presented itself to men of genius and enterprise. It was founded on nothing airy but to the mind that could think lightly of the sanctity of public faith; nothing groundless unless to those whose interests led them from a fair calculation of those immense advantages that unite themselves in the centre of the Union, on one of the noblest navigable rivers in the world. It was a speculation bottomed for the security of its profits in the faith of the Union. It is impossible that the gentleman, who is really so excellent a judge of good speculation, of commerce, and of city property, and whose property so adorns this city, and so largely contributes to its elegant amusements—for that circus and that hotel in view belong to the gentleman—should

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seriously believe that the Federal City is an airy speculation. It must have been in the moment of poetical indulgence, and been determined in the cast of character he meant to assume in the debate, to give us "T'other side of the Gutter," which he understood was an excellent dramatic thing, as it was played in the gentleman's own circus. He lamented that that circus was not now in the Federal City. He observed, that were the question at this moment to be, in what part of the Union shall the permanent Seat of Government be? he believed that it would be placed where it is contemplated, at the Federal City. If great views pointed out the banks of the Potomac, in Maryland, to be the proper place under such a question, would it not be extremely natural for the Government, not perhaps to give, but to lend money, in aid of private enterprise, for the very rational purpose of living in houses, in preference to holding their sessions, like Druids, in the open air or under trees? If houses were deemed necessary, if a thousand accommodations were essential to the settling of the Government there, what would be the duty of Government? Certainly to promote, not to discourage the growth of a city, and to lend money to attain that end.

Mr. PAGE said, he would vote for the bill, because, if it were not passed, it would give the public an idea that they did not mean to go there at the time appointed. He was no friend to the having a district of ten miles square, nor to the magnificence displayed in the PRESIDENT's house. He believed they need not be under any apprehensions of loss from the present guarantee; but, if the bill was rejected, the palace and other public buildings erecting there would come to nothing.

Mr. SWANWICK rose, and remarked upon what had fallen from gentlemen in reply to his observations. When he mentioned the removal of the Government, he did not mean to make any allusion to Philadelphia, or to the value of property there. He said, the gentleman's opinions were as erroneous with respect to the present as to the future. They seemed to ascribe the prosperity of Philadelphia to the residence of Congress there; whereas, if they would look around them, they would see more rapid advances in some other places which had not had the same advantage. A gradual rise had, for some time, been taking place in all parts of America, owing to a great influx of money and increase of commerce. Having this opinion with respect to Philadelphia, he felt perfectly indifferent about the removal of the Government—it would not take one cubit from her stature, nor from the value of the land to which the gentleman from Maryland had alluded on "T'other side of the Gutter."

It was said, that he objected to the title of the bill only. The bill, he said, contemplated a variety of objects, consequently the money proposed to be borrowed might be applied to any of them, as he did not find it was confined to the public buildings only. What was the original act for fixing the future Seat of Government, of which they had said so much, and quoted so little? [He

read the clause which says the PRESIDENT shall be authorized to receive grants of land and money.] The present bill was much at variance with the original act, for it makes the United States become speculators, and guaranty a large sum in a foreign country at six per cent. on the credit of the lots. He could not agree to this partnership of speculation, which the Government was about to enter into, because he should not himself choose to risk his private property in such an adventure, and thought it a good rule not to place the public on ground he should not like himself. But, it was said, good faith required that they should guarantee this loan, because they had said Government should go there at a certain period. But this was only said conditionally, if proper buildings were prepared for their reception. It was not expected they should, at all events, go there and sit under the canopy of Heaven.

The objections which he had made to the borrowing of money, did not seem to have the same weight with other gentlemen which they had with him. He said there would be a loan to be negotiated for the use of Government, and he was apprehensive the one might interfere with the other. This step was only the commencement of the business. He remembered when £20,000 were granted for building the house of the PRESIDENT, in Philadelphia, it was thought a very large sum, but nearly twice that sum had been asked for since, and the house was not yet finished. So it would probably be in this case. They were applied to at first for \$500,000, but now the sum was reduced to \$300,000. He expected this would not be the last call. He was against the principle of the bill. He would not make any further observations on the subject, nor would he have risen again, had it not have been to notice some rather personal remarks which had been made on the sentiments he had before expressed.

Mr. SITGRAVES said, it was to be expected that the members from Pennsylvania would, in giving opposition to this bill, have to meet the reflections which they had heard. He was, for his own part, not surprised at them, nor, indeed, was he displeased. He would submit to them, and to much more, when conveyed with so much pleasantry as had been used by his friend from Maryland, [Mr. MURRAY.] But the members from Pennsylvania would ill deserve the confidence reposed in them by their constituents if they should suffer such considerations to mingle with the discharge of their public duty, or if they could be prevented from declaring their opinions by that greatest of all weakness, the apprehension that improper motives might be attributed to them. He could not help considering that gentlemen greatly overrated the advantages derived to the city of Philadelphia from Congress sitting in it. He had read that when one of the Kings of England, in a fit of disgust, threatened the citizens of London to remove his Court and Parliament to Oxford, they hoped "his Majesty would not take the Thames with him." And, so long as they left the Delaware behind them the city of Philadelphia would, he imagined, feel no material loss from the removal of

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Congress, except, indeed, the agreeable society of its members during their session. But he considered this humorous kind of discourse on serious subjects as calculated to keep out of view more important considerations. He had stated that the bill was an illusion; that the United States assumed and held out to the public and to money-lenders a right to pledge property, which, he ventured he say, they did not possess. He had said this, though the Attorney General and three professional gentlemen in that House maintained an opposite opinion; for all his respect for their sentiments could not induce him to abandon his own in that which he had expressed. He had not been singular, and he trusted he had shown satisfactory grounds on which he supported it. But, if the opinion of the Attorney General was just, and the land was at the disposal of the United States, he contended that would be a decisive reason why the bill should not pass, because it did not furnish for the United States the best indemnity that, conformably to that opinion, the case is susceptible of.

It had been agreed, before the recommitment, that if greater security than the bill offers could be given them, it ought to be given. If the opinion contended for is correct, the land can, and, if it can, it ought to be placed in the hands of a responsible public officer: whereas, at present it was in the hands of private trustees, persons no way amenable to the United States, but by process in the Courts, in the common forms. He was sure the PRESIDENT was not publicly responsible until the money came into his hands. When grants of money were paid into his hands he was responsible for them.

It has been said the trustees could not touch the money. From whence was this opinion collected? The trustees alone can convey to purchasers. The money, by the deed, is expressly appropriated, first, to pay the original price of the land, and must pass through the hands of the trustees before the residue can be paid over to the PRESIDENT for public purposes. He had said the present bill was liable to another objection, viz.: as holding out a false view to money-lenders, and he had been astonished to hear from a gentleman from Connecticut [Mr. HILLHOUSE] that money-lenders would take care of themselves, and that Government need not make itself uneasy on that head. He was sure that such a sentiment did not agree with that delicate and tender regard which that gentleman always appeared to profess for the purity of public credit.

Mr. STIGREAVES said, he was willing that Government should remove to the new city as proposed, and would lay no obstruction in the way of that removal. There was, however, an essential difference between interposing obstructions and refusing aid, which we were not bound to grant. They ought to say, "We are bound to go if you are ready to receive us, but we will not become city builders." This bill, he said, was predicated on a possibility that we should one day have to pay the money, for which it

pledged the United States as guarantee. He should continue to oppose it.

Mr. BRENT said, the present bill seemed to be peculiarly obnoxious to the gentleman from Pennsylvania last up, because it purported to guaranty a loan for the erection of public buildings in the Federal City. He said, he was by no means tenacious about the title, so that the object of the bill was obtained. He said, the apprehensions of the gentlemen from Pennsylvania and Connecticut were the most unfounded that could be imagined, and if they had noticed the observations which had fallen from his colleague, they must have seen that they were unfounded. When they recollected what the lots had sold for, the number remaining on hand unsold, and the price they will most probably command, when it is known that Congress has agreed to guaranty the proposed loan, it must be one of the most idle apprehensions to suppose that this property will not be a sufficient guarantee for the amount of the loan. Gentlemen had said that if, when the original act passed, it had been supposed that application would have been made to Government to aid the erection of the public buildings, it would never have gone into effect. He knew not what might have been the opinion at that time. He formed his ideas from the act of Congress itself. There he found if there were certain concessions made by any State for the use of the General Government, Congress stipulated that the Seat of Government should be removed. In consequence of this declaration, two States and several individuals of the States had made considerable sacrifices. Will gentlemen, then, say that, after these circumstances had taken place, and these offers had been solemnly accepted, that the faith of the United States was not pledged? If so, they view the matter in a far different light from him. Objections had been made with respect to the security of the United States with respect to the trustees. It would be sufficient to say that these subjects were fully considered by the select committee, and they had taken the opinion of the Attorney General, which was clear and satisfactory. Those who heard the deed read would recollect that the property was to be conveyed to trustees, and sold, from time to time, under the direction of the PRESIDENT, the money to be appropriated by him for the erection of suitable public buildings for the use of Government. But, according to the gentleman from Pennsylvania, the public had no security but the money might be diverted by the trustees to other purposes. This opinion was so far from just, the trustees could never have touched the money, as the property is to be sold under the direction of the PRESIDENT OF THE UNITED STATES. He should be glad to know, therefore, what possible risk there could be in the disposal of the property? The purchaser will see that the trustees are the sole agents, and that the money is to be under the direction of the PRESIDENT. Can it, then, be supposed that any purchaser will pay his money other than agreeably to the direction of the PRESIDENT?

With respect to engagements on the part of the

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public. It had been suggested that sufficient money had been paid into the hands of the PRESIDENT to finish the public buildings. The fact might be so. He did not mean to determine on the misapplication of money. But, admitting the buildings were on too extensive a scale, and the money had been squandered, against whom does this accusation retort? Not against those who gave it, but on that House, who had not attended to the expenditure of it. The fault rested with them, but they were not, on that account, dissolved from their engagement. The gentleman from Connecticut said he entertained no wish to obstruct the removal of Government, but he was unwilling to grant the proposed loan. If he objects to the buildings being on too large a scale, but is still willing to transfer the Government, he should have brought forward his objections in an earlier stage of the business, and suggested a different kind of plan for the buildings. But, as he had suggested no such plan, the gentleman's making an objection to the mode now, appears like an attack upon the bill itself. And, if he were of opinion that it was desirable to remove the Government at the time appointed, it was essentially necessary to guaranty the loan, as the buildings were now at a stand for the want of the necessary aid, or they must legislate under the canopy of Heaven. He trusted, therefore, the gentleman would see the propriety of voting for the present bill.

Mr. CRABB said, he should have expected objections from any part of the Union sooner than from Pennsylvania. One of the members from that State [Mr. SITGREAVES] had told them that there was no obligation on Congress from the original act—at least he knew not of any such. But he had forgotten that they were bound to sit in Philadelphia ten years; and, if they might judge from the gentleman's language on this occasion, he thought they might conclude he wished to keep them longer. His colleague [Mr. SWANWICK] travelled no further than the title of the bill, and found a bill authorizing a Loan for the City of Washington. But, if he had read the first clause of the bill, he would have found that the money was wanted to complete the public buildings in that city. The same gentleman went on to say, that it was degrading to America to borrow money in a foreign country to erect their public buildings, and that, before he should do this, he would come forward and lay taxes upon his constituents. If that gentleman was willing to do this, he was not. He thought it would be a wanton abuse of their power to lay a tax unnecessarily. He had no doubt but the lots would sell for double the sum proposed to be borrowed. It had also been said that a guarantee amounted to a loan. No guarantee could be made without such words. The same gentleman proceeded, and said, if the lots were worth the money, why call upon Government for a guarantee, why not borrow money upon the lots themselves? That gentleman, said Mr. C., might borrow his thousands or tens of thousands at home, where his property is known, but if he were in a foreign

country, and unknown, he would have need of a guarantee if he wanted to borrow. He trusted the bill would pass by a large majority, which would serve to show to the public that they did not mean to impede but to cherish the growth of this infant city.

The sense of the House was then taken by yeas and nays, and the bill passed, 72 against 21, by the following vote:

YEAS.—Fisher Ames, Abraham Baldwin, Lemuel Benton, Thomas Blount, Benjamin Bourne, Theophilus Bradbury, Richard Brent, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Isaac Coles, William Cooper, Jeremiah Crabb, Henry Dearborn, George Dent, Samuel Earle, William Findley, Dwight Foster, Jesse Franklin, Albert Gallatin, Ezekiel Gilbert, William B. Giles, James Gillespie, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Christopher Greenup, William B. Grove, Wade Hampton, George Hancock, Carter B. Harrison, Robert Goodloe Harper, John Hathorn, John Heath, James Hillhouse, William Hindman, James Holland, George Jackson, Matthew Locke, Samuel Lyman, Nathaniel Macon, James Madison, Francis Malbone, John Milledge, Andrew Moore, William Vans Murray, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, John Patton, Francis Preston, Robert Rutherford, Theodore Sedgwick, John S. Sherburne, Jeremiah Smith, Nathaniel Smith, Israel Smith, Isaac Smith, Samuel Smith, William Smith, Thomas Sprigg, George Thatcher, Uriah Tracy, John E. Van Allen, Abraham Venable, Peleg Wadsworth, John Williams, and Richard Winn.

NAYS.—Theodorus Bailey, Nathan Bryan, Joshua Coit, Abiel Foster, Chauncey Goodrich, Andrew Gregg, Roger Griswold, Jonathan N. Havens, Aaron Kitchell, Samuel Maclay, Frederick A. Muhlenberg, John Reed, John Richards, Samuel Sitgreaves, John Swanwick, Zephaniah Swift, Abalom Tatom, Richard Thomas, Mark Thompson, Philip Van Cortlandt, and Joseph B. Varnum.

Mr. TRACY, from the Committee of Claims, presented a bill to provide for the widows and orphans of certain officers who have died of wounds received in the service of the United States since the 4th of March, 1789; which was received and read the first and second times, and ordered to be engrossed, and read the third time to-morrow.

DUTIES ON DISTILLED SPIRITS.

Mr. MACON said, owing to a failure of their crops, a number of his constituents had distilled far less than their usual quantity of spirits, and he therefore wished they might be permitted to pay their duties in proportion to the quantity made, instead of being charged according to the capacity of their stills. He laid a resolution on the table to that effect.

THE BRITISH TREATY.

The Message from the PRESIDENT read yesterday in answer to the call for papers, was referred to the Committee of the Whole on Wednesday next.

FRIDAY, April 1.

A bill extending the provisions of a bill for the relief of widows and orphans of officers who have

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died since March 4, 1789, was read a third time and passed.

A memorial from the Washington Company of Maryland, praying for a portion of the Western lands, on certain conditions, and against a clause in the bill before the House respecting the receiving of certificates in part payment for the land, was read and referred to the Committee of the Whole on the bill for opening offices for the sale of land in the Northwestern Territory.

Several petitions were presented from the Western country, praying the English and Spanish Treaties to be carried into effect.

ADDITIONAL REVENUE.

The House then went into a Committee of the Whole on the report of the Committee of Ways and Means, on the state of the receipts and expenditures of the United States. The first resolution, contemplating a calculation for a direct tax, being under consideration—

Mr. JEREMIAH SMITH said, he should be glad to be informed of the reasons which induced this resolution. He doubted not the committee had grounds for bringing it forward; but he must own he did not feel himself prepared to agree to a system of direct taxation; his prejudices were in favor of indirect taxes. He did not like direct taxation; he thought it could only be justified by necessity. He should be glad, however, for information on the subject.

Mr. W. SMITH, the Chairman of the Committee of Ways and Means, observed, that if gentlemen examined the statement of the Committee of Ways and Means, they would see the necessity of the measure proposed. When gentlemen objected to plans brought forward by Committees of Finance, it would be well if they would substitute something in their place; if not, they must leave the Government in an embarrassed situation. This subject had occupied much of the time of the Committee of Ways and Means, which it was known was composed of a member from each State in the Union. The committee had attentively examined the state of the revenues and expenditures, and found considerable sums due to the Bank of the United States, a heavy Foreign Debt, a considerable increase of expense from the Deferred Debt, which becomes payable after the year 1800. It was absolutely necessary, therefore, to provide some means of meeting these exigencies, because they could not now, as had been customary heretofore, pay the instalments as they became due, by new loans in foreign countries. They must now pay the debt by raising a revenue for the purpose, or by new loans in this country. It was supposed, from the present demand for money in this country, it would not be possible to borrow money on advantageous terms; they had, therefore, no other resource than taxation. The committee having fixed this necessity as a basis, they were next led to inquire into the best means of effecting the business. Direct or indirect taxation were to be necessarily resorted to. In investigating the first, so many difficulties presented themselves, they were obliged to confine themselves to the re-

solution as reported. They thought a part of the necessary revenue might be raised from subjects of indirect taxation, but by no means to an adequate amount. The subject of direct taxation being a new one, they did not think it expedient at this time to make a particular report on the subject, but barely to provide that some system should be formed for the next year, by consulting the laws and practices of the different States, so as to make the system most palatable to each.

The committee had not determined that they would ultimately support a tax of this kind, but only to acquire all the information they could upon the subject. If, when this report from the Secretary of the Treasury shall have been made, the House should not think the plan a desirable or practicable one, it may be rejected. The House will see that some revenue must be had. Taxes of every kind were disagreeable, if they could be avoided, but that was impossible. Some gentlemen had supposed that indirect taxes would be less embarrassing and more agreeable to the people of this country; but if, upon the best information which could be got, it should be found unavoidable to resort to a system of direct taxation, they must individually surrender their prejudices against that system. In making these observations, he did not feel himself in the least committed to support a plan of direct taxation; he confessed he would much rather go into indirect taxation; but it was the sense of the committee that this method should be tried. A principal motive which influenced them to make this trial was this: Almost the whole of the present revenue depends upon commerce—on a commerce liable to be deranged by wars in Europe, or at the will of any of the great naval European powers; they therefore were of the opinion that it would be a prudent measure to have a system of direct taxation organized, which might be resorted to in cases of necessity. And although he should be against entering upon a system of direct taxation at present, yet he was in favor of a plan being systematized, which might supply any deficiency which might arise in the revenue from the causes above stated. He hoped no embarrassment would be thrown in the way of this subject in the present stage of it, by any prejudices which gentlemen might have against this system of taxation, as, hereafter, when the information required was laid before them, they could then exercise their judgments more completely upon the subjects; they would, at any rate, be in possession of a plan of raising a considerable revenue, which might be resorted to, at least in cases of necessity. For these reasons, he hoped the motion would be agreed to.

Mr. DAYTON (the Speaker) said he should enter upon a system of direct taxation with great caution. It was untrodden ground, and they ought to examine it well before they entered upon it. But he thought the present resolution a proper measure to introduce them to a view of the subject, which they might act upon or not, as they might hereafter determine. The forming of such a system would also have this good effect: it would have a tendency to make individual States

improve their present imperfect system of taxation—for he could not help considering them imperfect as to the difference in value betwixt improved and unimproved land, and betwixt different kinds of improved land in the same State; as, when the different States saw the General Government digesting a plan of taxation, they would naturally compare their own systems with the one proposed, and improve them where they thought them deficient. He had no objection, therefore, to agreeing to the resolution. He had an objection to the sum mentioned; he wished it might be less. He felt disinclined at present to a system of direct taxation; but if it was eventually adopted, he trusted care would be taken to have it duly enforced.

Mr. WILLIAMS should not object to the resolution before the House, though he was persuaded the formation of the plan proposed would be attended with great difficulties. In the State which he represented, a plan for direct taxation had been attempted for some years, and they could not agree on the mode. He should, nevertheless, wish to see such a plan brought forward by the Secretary of the Treasury; though he was of opinion it ought never to be resorted to but in time of war or in cases of extreme necessity. It was a positive kind of taxation, and such as could not be avoided. A farmer may be supposed to be always prepared to pay his share of taxes; yet, in cases of bad crops, they find farmers amongst the poorest of their citizens. This being the case, it would be almost impossible to raise a direct tax from them; but if the tax be indirect, it will be optional with them whether they pay it or not, in times of scarcity; and, when their crops return, they will purchase a larger quantity, and by that means pay a double tax. If taxes were paid on goods imported, the industrious man paid but few of them. But should he be asked how they were to raise the revenue? Suppose he were to pay ten shillings for a yard of cloth, and out of that sum two shillings went for duty, two for profit, and six to the foreign merchant, so that out of £200,000 received for an article of that kind, £120,000 would go to the public stock of a foreign country? Were this saved, it would enable them to raise taxes much easier in other ways. Hence, indirect taxes are paid at the option of the consumer, and those taxes operate as a spur to industry, as well as an encouragement to their own manufactures. But suppose direct taxes of the Governments of individual States? The General Government, he said, had guaranteed to each individual State a republican form of Government; but he thought direct taxes would not tend to secure them in it. Whenever the Governments of individual States had a surplus of money in hand, it ought to be employed in the encouragement of manufactures, in making roads and inland navigation, so as to be enabled to bring with all possible facility the produce of the country to market, so as to undersell every other market. This being the case, he should be against direct taxes, except in cases of emergency. Besides, indirect taxes generally went to luxuries, and left people at liberty to purchase them or not.

He thought, if a little more was laid upon the luxuries of life, it would please the people better than direct taxes. He trusted, before the end of their session, they should considerably lessen the public expenditure. There had been very large sums expended for the last two years. If they discontinued their Naval Armament, sold materials collected, and reduced their Army Establishment to one-half to what it had been calculated on by the Secretary of the Treasury, it would make a reduction in the public expenditure of near two millions of dollars. Hence no necessity for direct taxes; for if they continued at peace, he believed their present revenue would meet every necessity of Government. He should not observe farther at present, but would speak to the other resolutions when they were before the Committee.

Mr. HILLHOUSE said, the sum mentioned in the resolution had been objected to. He argued that it did not matter what the sum was, as it was merely mentioned in order to furnish a rule for the Secretary of the Treasury to found his calculations upon. But he would move that the sum should be left blank, which would leave the Secretary of the Treasury more at liberty. For it was not his idea, though they were directing this inquiry to be made, that they were about to lay a direct tax.

Mr. NICHOLAS hoped the amendment would not be pressed. It was not of much consequence what was the sum proposed, but it would be better that some specific sum should be named; because, in proportioning a direct tax, the Secretary of the Treasury must assume some sum. If he directed to lay a tax for two millions, it would be easy to reduce it at once; but if only laid for five hundred thousand dollars, he might omit a number of things which he would introduce in calculating for two millions.

Mr. BOURNE hoped the amendment would be agreed to. The resolution called upon the Secretary of the Treasury to make out a plan by which a direct tax might be laid. He knew there was no tax so disagreeable to the people as direct taxes. He thought it would be improper, therefore, to hold out any idea of such a tax being laid, except in a case of absolute necessity. He agreed to this proposition in the committee, because the present revenues, depending almost entirely upon commerce, were very precarious, and liable to be interrupted by war, and it was necessary they should have some resource to which they might resort in case of any interruption being put to their commerce. With respect to their ordinary course of taxation, he trusted they should not have recourse to a system so disagreeable as that of direct taxation. It would be necessary they should have an increase of revenue in the year 1801; but he trusted the prosperity of their commerce would be such as to enable them to meet the public exigencies at that period. They had found that their revenue had doubled its amount since it was first laid, and from the growing situation of their commerce, they might reasonably expect a continuance of its increase. The gentleman from New York had suggested that some additional

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tax might be laid on articles of luxury; but he was of opinion any additional tax on commerce would rather operate against the revenue than in favor of it.

These observations, Mr. B. said, did not apply immediately to the question before the Committee, which was merely to strike out certain words, so as to leave the sum blank. He thought it was not necessary to alarm the people with an idea that a direct tax of two millions of dollars was about to be laid; he did not think so great a sum would be wanted, and very probably no necessity would exist of resorting to a direct tax at all. It would be necessary for the Secretary of the Treasury to fix upon some sum when he proceeds to make his calculation, and when two millions were mentioned, it was merely as a kind of text for him to estimate from. He did not see why the apportionment might not be made on one million as well as two. It was said a calculation for two millions might include articles which a less sum would not embrace; but, he said, that, in his opinion, the plan reported by the Secretary of the Treasury would not point out all the particular objects of direct taxation to which it might be thought necessary to resort. He was in favor of adopting a plan which should be congenial to the different States, if a direct tax was resorted to at all.

This subject of direct taxation was a subject of considerable discussion in the committee. It was pretty generally opposed, and was a prevailing opinion in the committee that indirect taxation should be exhausted before they had recourse to direct taxation. A sub-committee was accordingly appointed, who reported a variety of objects as proper of indirect taxation, but when they were proposed to the committee they met with much opposition; a sub-committee was also appointed to report on the subject of direct taxes. They reported, generally, that the thing was practicable. The committee did not report a system in writing; previous to their report, they called upon the members from different States for information of the mode of assessing and collecting direct taxes in the different States. On inquiry, it appeared that some States had not for a considerable time been in the practice of laying direct taxes, and that in some there was no existing valuation of taxable property. This would cause considerable difficulties in the way of any plan that can be thought of, in the apportionment among different districts and individuals in States where there was no valuation. The committee, on the whole, were of opinion that all which could be done with propriety at the present was contained in the resolution before the Committee, calling on the Secretary of the Treasury to report a system of direct taxation, to be adopted when it shall be found indispensably necessary. For his own part, he doubted the practicability of the plan; but he believed they had fixed upon the best method of discovering whether it could be carried into effect or not, by recommending the present resolution. He therefore hoped it would be agreed to.

Mr. S. SMITH did not think it material whether

the amendment took place or not. The gentleman from Rhode Island seemed to be alarmed at the sum. He had made a calculation to know how much the State which he represents would be liable to pay upon the scale in the report, and found it would be no more than 40,000 dollars. He contemplated that greater difficulties would attend the forming a proper system for a scheme of direct taxation; but he thought this time of peace and plenty would be the proper time to look at the subject, so that Congress might be prepared to act in case of emergency. It was of no consequence upon what sum the calculation was made.

It would be remembered, Mr. S. said, that two years ago, when the British seized the property of their merchants on the ocean, gentlemen had turned their minds to the public revenue; they were perhaps deterred from resenting the insults which had been offered to them; they went into calculation, and found it would not be prudent to risk too much. He believed the proposed inquiry was necessary, and as the sum seemed to be objected to, he had no objection to adopt the amendment. A gentleman from New York had spoken of the propriety of laying an additional tax upon imported luxuries. He would remind gentlemen that the duties upon commerce were already high; that if they were made higher, it would become an object to evade the payment. Duties might be stretched too far; for, when duties became excessive, men would calculate the risk, and if they could escape once in three or four times, it might be worth the risk. He referred to the enormous duties which had been paid on tobacco in England, and showed that more revenue was collected on the reduced duty. The merchants of the United States were disposed to pay their duties fairly, though it was inconvenient to them, as they were obliged to bring forward their first and best payments to pay their duties. He delivered his sentiments upon the subject thus early, that gentlemen might turn their attention to it, although he did not think that it would be advisable at present to have recourse to direct taxation. The indirect taxes which had been laid had been far from successful, some of them, indeed, worse than nothing. The tax on snuff was one of the latter. Several indirect taxes had been proposed in the select committee, but had been rejected. He doubted not their commerce would continue to advance, and that, in the year 1801, the duties arising from it would be so increased as to be equal to the public necessities. He thought it necessary, however, that they should turn their eyes to the subject; he would not advise the adoption of the measure, but he should be glad to have a sight of a digested plan relative thereto.

Mr. GALLATIN said the amount of the sum in the resolution was not very material; but so many observations had fallen from different quarters against the system of direct taxation, that he should think it necessary to say a few words on the subject.

He agreed in one thing with the gentleman

from Rhode Island, that they ought not unnecessarily to alarm the people by giving them an idea that they want to raise money by direct taxes if they do not want money. The first thing to be considered was, Do they want money? If their revenue were sufficient to answer all the demands which were likely to come against them, it would be unnecessary even to direct the Secretary of the Treasury to prepare a plan on the subject; but, if it is important not to alarm the people, it is equally important not to deceive them. They should be made acquainted with their true situation, without flattery and without exaggeration. He thought their situation truly stated in the report of the Committee of Ways and Means, which was at present before them. It appeared that their present revenue was equal to their current domestic expenses; but there were several objects that claimed their attention. These objects were of three different kinds; first, the instalments of the Foreign Debt, as they became due, which cannot now be satisfied, as heretofore, by new loans. Hence arose a present embarrassment for money. Nor had any permanent provision yet been made to discharge the Debt. It was for providing the means of meeting these demands that a system of direct taxation was proposed. It was not to alarm the people, but in conformity to the wish of the people, and the recommendation of the PRESIDENT to lay a foundation for extinguishing the Public Debt.

The second object to be provided for was, the Debt consisting of domestic loans, which had been contracted under the new Government, and were of three kinds; 1st. The instalments of 200,000 dollars a year to the Bank, on account of stock in the Bank of the United States. No provision had been made by Congress for discharging these instalments, so that they had been paid by borrowing money abroad, or rather the Debt was turned over from one creditor to another.

2d. The million of dollars which had been borrowed to purchase a peace with the Algerines. The sums appropriated to do this, were the five new duties on snuff, sugar, &c. These had proved unproductive, and were only sufficient to discharge the interest, but not the principal.

3d. The anticipations furnished by the Bank of the United States in advance of the revenues. Of these anticipations he would not speak at present, as he should have occasion to speak of them hereafter. For those anticipations no revenue was in fact provided—for the revenues paid every year were barely sufficient to defray the expenditures of that year, and could not be applied to repaying the anticipations of the preceding year. Hence a debt of 3,800,000 dollars had accumulated on the 1st of January last, which remained to be discharged.

The third object to be attended to was the increase of expenditure of near 1,200,000 dollars a year, from the year 1801, arising from the annuity of eight per cent. payable after that year on the deferred stock, and for the payment of which no revenue was provided. It was thought necessary to make some provision for raising an additional

revenue, equal to the sum, as early as possible, as the money received in the meantime might be employed in discharging some of the domestic loans or Foreign Debt. The Committee of Ways and Means had filled the blank in the resolution with a million instead of 1,200,000 dollars, and they had suggested the reason in the report. One million two hundred thousand dollars were to be raised at all events, to meet the year 1801. But if 800,000 dollars were added, then the two millions would, within a term of twelve years, not only pay the annuity of eight per cent. on the deferred stock, but discharge the whole of the Foreign Debt, of the domestic loans of every description, and of the new Domestic Debt created in order to discharge the balance of the Debt due to France. Such a prospect justified the measure, and would, he trusted, render it agreeable to the people of the United States. Yet, as it might appear during this year, that the present revenues would prove more productive than had been contemplated; as, in the course of this session, some of the expenditures, chiefly in regard to the Military Establishment, would, he hoped, be diminished; and as, under those circumstances, Congress would be better able to judge, at the ensuing session, of the actual additional revenue that might be wanted, he had no objection to the proposed amendment, and to leave the sum in blank. He had, however, no idea of such savings being possible as were contemplated by a gentleman from New York [Mr. WILLIAMS.] That gentleman had said that two millions of dollars might be saved by a reduction of the Military Establishment, and a suspension of the Naval Equipment. How he could make it appear that two millions could be saved out of 1,500,000 dollars, (which was the whole estimate for both those objects) he could not understand. But he agreed that a considerable saving would be made from those resources. The present calculations were all made upon the present expenditure, therefore, if this was increased or decreased, it would increase or decrease the deficiency.

But as to the resolution itself. If it had been proved that they wanted the money, in what way should they raise it? There were great outcries against direct taxes. He owned he did not see them in so disagreeable a light as had been represented. They knew money must be raised either by direct or indirect taxes. Whatever prejudices gentlemen may have against direct taxes, yet they must all agree, that if a large revenue was to be raised, it would be necessary to have recourse to both modes, in order that property of every kind might contribute its due proportion. Taxes, in every country, ought to apply to that kind of property which exists in the country, and it was evident that the situation of America was very different from that of Europe. We could raise large sums by impost on imported goods, but if recourse was to be had to excises or duties on our own manufactures, we should find these in an infant state when compared with those of Europe. It will be proper to mention the articles of domestic manufactures which alone appeared to be in a

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sufficiently flourishing situation, and extensive enough to be productive, and which were accordingly reported by a select committee, but rejected by the Committee of Ways and Means; they were (besides an additional duty on salt) hats and leather; but it was found that a tax on these articles was not a tax on luxuries, but would be as obnoxious, and more oppressive than direct taxes could be. It was from these considerations, and not from any fondness for direct taxation, (finding that they had exhausted the subjects of imposts) that they thought of proposing the present plan. The chief resources of the English were, land tax and excise; but here it was imposts alone which supported their revenue. They raised thereby six millions of dollars, as it had the same effect as excise in other countries, being an indirect tax upon what was consumed, and the reason for laying them in this way was, because we were not manufacturers.

Again, it would be found that the chief property in this country was land, and not a capital applied to manufactures, and therefore they would be obliged to have recourse to land and not manufactures for revenue. He hoped, therefore, the present resolution would be adopted, whether amended or not; and he hoped those gentlemen who had objected to a system of direct taxation, would, previous to the next session of Congress, give the subject a candid examination.

By the present resolution, the Secretary of the Treasury was ordered to make out such a plan of direct taxation as shall be most agreeable to the laws of the different States. He said the part of the United States in which direct taxes were thought to be most obnoxious, were the Eastern States, and perhaps that circumstance arose from their system of direct taxation. The proper objects of direct taxation, in his opinion, were, visible, and especially, real property; for, he supposed, when property was invisible, the only way to tax it was in an indirect way; for it was impossible to value it, and of course to tax it by a direct mode, unless the account given by every man was taken for granted, or an arbitrary power left to an officer to guess its amount. Yet, in the Eastern States, they taxed in a direct way, real and personal, visible and invisible, known or supposed property, and it was a question with him, whether that was not the chief cause of the prejudices which existed against direct taxation in those States. He conceived a tax on houses and land might be raised without difficulty, and his own wishes were, that a system had been reported for that purpose by the committee, instead of recommending the present plan, which was to be applied to the laws of the different States, and to embrace the defects of all; but a majority of the committee approving the present plan in preference, it was of course adopted; and he trusted it would now be agreed to.

Mr. HARPER said he would vote for the amendment, and even if that were lost, still he should vote for the resolution as reported by the committee, but lest, by so doing, he should be understood to concur in the opinions advanced by some

gentlemen in support of the resolution, he begged leave to state, and he should do it as concisely as possible, the sentiments which he entertained on this subject. He approved the resolution, because the object and tendency of it were, not to establish a system of direct taxation, but to furnish the House with a digested plan on that subject, with the most complete information, of which it might hereafter avail itself, should the exigency of our affairs, the support of our national credit, render a resort to direct taxation necessary. He agreed with the honorable member lately up from Pennsylvania [Mr. GALLATIN] that we ought not to deceive or mislead the people respecting the state of our finances, but he was far from agreeing with him as to the immediate necessity which he had alleged us to be under, of making an addition to our present system of taxation. Whence could this necessity arise? In order to answer this question, we must ask in the first place what are our present objects of expenditure, and how far is the present revenue adequate to meet them? They consist of three articles: 1st. The support of Government, including the Civil, Military, and Judicial departments; 2d. The interest of the Public Debt, foreign and domestic, and 3d. The gradual reimbursement of a particular description of the Public Debt. To these objects it appears that the present revenue is fully adequate; and from hence could arise no necessity for an increase of taxes. But there were certain additional objects of expenditure, not included in the current annual expenses, for which it was said provision must be made. What were these? They were capable of being divided into two general classes: first, the reimbursement of certain parts of the Public Debt; and 2dly, the interest on the Deferred Debt; which would commence in the year 1801, amounting to about 1,200,000 dollars. The debts to be immediately reimbursed consist of three descriptions, 1st. The instalments of the Foreign Debt which will become due in this year; 2dly. Instalments of Domestic Loans; and 3dly. The Debt due to the Bank of the United States, partly for loans, and partly for other objects. Those three classes constitute that part of the Public Debt which, it is said, must now be paid, and on the supposed necessity of paying it, rested the necessity for an immediate increase of revenue by new taxes. The necessity of paying it, however, he denied. Most of this debt, by far the greatest part indeed, was due to the Bank, and the Bank offers to reloan it at six per cent. interest, the principal to be redeemable after a certain number of years. They will accept this Loan as a payment, and this payment will enable them to accommodate the Government with such loans in future as may be necessary for paying the instalments of the Foreign Debt as they become due; an operation by which the Foreign Debt will be gradually converted into a Domestic Debt.

There appearing, then, no necessity, at this time at least, of paying the principal of this Debt, the payment can be urged on reasons of policy only. What, then, does policy, and an enlight-

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ened regard to the interest and happiness of the people dictate on this subject? A nation, in every respect stationary, stationary in its population, in its commerce, in its industry, should it find its present taxes inadequate to the support of its current expense, and the gradual extinguishment of its Public Debt, ought to lay new taxes, because every principle of good policy dictates, that effectual provision ought to be made for paying, within a reasonable and convenient time, the Public Debts. But a nation progressive in all respects, like the United States, increasing beyond all former calculation in population, commerce, wealth, and all the pursuits of industry, ought to pursue a contrary policy, because, as her revenues, being derived from her wealth, her commerce, and her consumption, must greatly increase, with them she has the most certain prospect of deriving from her present sources of revenue the ample means of paying her Debt in a short time. The United States had two sources from which they might expect to derive ample funds for this purpose; the increase of their revenue from the present taxes; and the sale of their lands. As to the first, it was well known that the revenue from imposts and tonnage had greatly increased within the last two or three years. In 1793, they were 6,000,000 only; in 1794, 6,680,000 dollars. What, then, may we expect them to be ten years hence? The internal revenue was also certain of increasing with the increase of population, capital, and industry. With respect to lands, the late Indian Treaty had given the United States the disposal of upwards of 9,000,000 of acres, which we are now passing a law to sell at two dollars per acre. The Indians must also recede before the progress of our settlements, it being in the nature of things that an agricultural people must root out a people of hunters; and as they recede, their lands fall into the disposal of Congress, and furnish an unfailing and increasing source of revenue to the Union. He requested gentlemen, who might be in doubt about the importance of this resource, to turn their eyes to the States of Pennsylvania and New York, and to the District of Maine. They would find that lands there had tripled, even quintupled in value, during the last four or five years, and that those States, though they by no means sold on a wise plan, had drawn vast sums into their treasuries from this fountain. Why, then should it not yield immense revenue to the Union, if husbanded as it had appeared to be the disposition of the House to husband it?

Under these circumstances would it not be the worst of policy to lay new taxes for paying debts which we are not called on to pay? Nothing but necessity could justify such a step; and that necessity could never exist while their creditors were content to receive the interest, and let us retain the principal. Ought we to take the capital out of the pockets of our constituents, when an annuity equal to the interest would satisfy the creditor?

As the interest of the Deferred Debt, which would commence in the year 1801, that, he said

must undoubtedly be paid, and provision for paying it ought to be made. We have, however, from the source above mentioned, the utmost reason to believe that our revenue would, by that time, be so far increased as to meet this additional expenditure without additional taxes. If we should be disappointed in this hope, new taxes must be resorted to, and he would agree that we must, in that case, look to direct taxes, the system of indirect taxation having already, as he now conceived the subject, been carried so far as not to admit of any considerable extension. Should direct taxes, in this or any other event, appear to be necessary, the plan contemplated by this resolution would be of essential use in directing us how to arrange the system. It would, also, be of use, should we, contrary to present appearances, be unable to continue on loan any such parts of the Public Debt as we are now liable to be called on for, till our present revenues shall have increased and afforded us the means of payment. In that case, new taxes will become necessary, and this system will probably appear the most eligible. For the purpose, therefore, of gaining such information on the subject of direct taxes, as may assist the House in any future resort to them which might appear to be necessary, he should vote for the resolution, declaring it, as his opinion at the same time, for the reasons which he had stated, that no such resort was now necessary or proper.

Mr. SWANWICK was better pleased with the resolution as proposed to be amended, than as it stood in the report. He thought a plan for laying a direct tax would be of great public utility, as he thought it a proper tax to be resorted to for an increase of revenue. It was certain they had drawn most of their examples of taxation from Great Britain. She, like them, derived most of her revenue from commerce, which she watched over with the greatest possible attention; so that, though heavy burdens are laid upon her commerce and manufactures, by the great attention which her Government pays to their encouragement and protection, these classes are enabled to support them. But how was the commerce of the United States at all times exposed! It was always a matter of courtesy in the European Powers whether their ships passed in peace, or they were despoiled. This being the case, it was too precarious and uncertain ground to rest all their revenues upon. The gentleman from South Carolina had gone into arguments to prove the impolicy of paying off their National Debt at present, from an idea that they shall be better enabled to pay it at some future day. This kind of picture, it was true, was very pleasing; but he should also have taken another view. This country was not, more than any other nation, secure from the misfortunes of war, pestilence, or other calamity, and if such a day of evil were to arrive, would it not reverse all the objects which he had so pleasingly painted? And was it not wise to be prepared to meet misfortune? If they went on increasing their Debt, the whole revenue of the country would be swallowed up in interest to foreign countries, and all their measures would be

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forever clogged for want of having a portion of money in their Treasury. The deferring of the payment of money to a future day, was a rock upon which many had found ruin. What had been the experience of all ages, with respect to the nations acting upon such a policy? Was it not that their finances every day became more desperate, and that the evil was only cured by revolution? He need only look to the situation of Great Britain to be deterred from adopting such a system. For six years, he said, they had been neutral, whilst Europe had been in a flame of war; every thing had conspired together for their interest. This was the time to have collected taxes to have paid off their Debt. If they waited for a peace in Europe before they attempted this business, he believed, whenever that took place, they should either experience a decrease or a stagnation of trade. In the year 1801, they should be called upon to pay certain instalments of the Foreign Debt; would it, then, not be wise to anticipate the moment, at a time when they had few taxes to pay, and proceed to reduce their Debt? No one could think their credit would be lessened by such a practice; it would be greatly increased; for, as soon as it should be known that they were paying off their Public Debt, foreigners would immediately have a higher opinion of them. Every nation was getting tired of the system of funding; and it would be the greatest encouragement to foreigners to come to this country, when they learnt that they were paying off their Public Debt. He was, therefore, in favor of adopting such a mode of direct taxation as should be best suited to the several States, in order to pay off their Debt as soon as practicable.

The gentleman from Pennsylvania had said, that he expected that the loans from the Bank had been calculated to pay off a part of the Debt, but it is found no more than the interest was paid. And to supply the deficiencies of several years, they were called upon now for five millions of dollars, but if former Legislatures had been careful to have kept their accounts even, this call would not have been made. He did not like the plan of loaning and reloaning. Besides, he believed that time was passed. He believed that several nations, who had been in the habit of borrowing money, had failed to pay their interest regularly, which had given a shock to loaning which would not be easily recovered. He believed the Bank of England had been compelled to shorten their discounts. American funds had fallen in consequence, not from a want of faith in the American Government, but owing to the 'general scarcity of money in England.

The gentleman from South Carolina had said, that their lands would be a fruitful source of revenue. He thought with him, and, therefore, it was that he wished them to be sold as soon as possible: For he should think it as unwise for the nation as for an individual to owe money whilst he had land with which he could pay off his debts. He thought if even the land should increase in price, the price of the public funds would, at least, keep pace with the price of land,

he was, therefore, for selling the land whilst a good price could be got for it, and for paying their Debt whilst the price of stocks was low.

Mr. GILBERT did not see any necessity for so long a discussion. If they were to attend to all that gentlemen knew on the subject of public debt, taxation, &c., they should increase the National Debt instead of reducing it.

Mr. HILLHOUSE moved an amendment of the words "as nearly as may be," to be added to the clause directing the calculation of the plan of direct taxation to be made according to the practice of the several States. He observed that it had been said, that the difficulties in systems of direct taxation had arisen from endeavoring to tax invisible property; but, he said, the objections to the system had arisen from moneyed men not being subject to it.

The first resolution was agreed to, and the Committee, by general consent, passed on to the fifth, for making an irredeemable debt for twenty years, of five millions of dollars. The resolution being read, some debate took place upon the propriety of passing this resolution: it was at length agreed to, leaving the words five millions a blank, to be filled up when the bill came before the House.

In the course of the debate, Mr. GALLATIN, who opposed the measure, upon the ground of its unnecessarily increasing the Funded Debt, as he thought the Bank of the United States might still give Government credit for the sum owing; called the Public Debt a public curse, which called forth the censure of

Mr. DARTON, who said, he was glad to find that when the terms disorganizers, rebels, traitors, &c., were flying about the House, that gentleman had not joined in the cry, but he thought he was equally reprehensible with the gentleman who had used the terms alluded to, in calling the Public Debt a public curse. He disliked all such phrases, and, also, that they should cast any reflection upon the public creditors.

Mr. W. SMITH introduced the following statement, viz: That it was proposed to fund five millions of dollars, being the amount due 1st January, 1796, by the United States to the Banks of the United States and of New York. The items which composed the said five millions, were,

1. For participation, on account of the accruing revenues for the current services, \$3,800,000
2. For an instalment of the Dutch debt, due June, 1795 - 400,000
3. For Loans had on account of Algerine negotiations - 400,000
4. For instalments due for Bank stock - 5,000,000

Mr. W. SMITH said, that against the above may be placed the following sums, to the credit of the United States, viz:

Bank stock, the property of the United States, producing 8 per cent per annum - \$2,000,000
 Stock standing to the credit of the Commissioners of the Sinking Fund - 2,307,661
 Debts of the late Government, paid in specie at the Treasury, prior to Jan'y, 1794 445,860

Instalment of Dutch debt of June, 1795, included in the debt to the Bank	-	400,000
Reimbursement of 6 per cent. stock on the last December, 1795	-	520,000

5,673,521

To which might be added for bonds at the custom-houses uncanceled, which the course of the Treasury business exhibits, on an average	-	4,000,000
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Total to be opposed to the temporary debt \$9,673,521

Mr. SMITH further remarked, that the annual expenses since January, 1794, had been greatly increased by the following extraordinary items, viz:

The Western insurrection	-	\$1,200,000
Algerine and other negotiations	-	1,000,000
Fortifications and naval armaments	-	600,000
		<u>\$2,800,000</u>

At this point the Committee rose, and had leave to sit again.

The SPEAKER laid before the House a Letter from the Secretary of State, enclosing sundry estimates, referred to in the Message of the PRESIDENT, of the 29th ultimo, relative to Treaties with Spain and other foreign nations, and with certain Indian tribes; which was read, and ordered to lie on the table.

The SPEAKER informed the House that he had in his hand a confidential communication from the PRESIDENT, and the House and galleries were accordingly cleared.

MONDAY, April 4.

The committee appointed to inquire whether any, and if any what, alterations were necessary to be made with respect to Post Offices and Post Roads, made their report, which recommends several routes to be discontinued, and others to be established. It contains, also, provision for the safer conveyance of newspapers in future, to different parts of the Union.

Mr. MACON, from North Carolina, moved that his resolution, laid upon the table a few days ago, to provide that certain persons should be allowed to pay a duty for the quantity of spirits distilled for the last year, instead of according to the capacity of their stills, on account of a failure of crops, should be referred to the Committee of Commerce and Manufactures. The motion was agreed to, and that the provision should be general.

ADDITIONAL REVENUE.

The House resolved itself into a Committee of the Whole on the report of the Committee of Ways and Means, on the receipts and expenditures of the Government; when an amendment to the fifth resolution, to strike out the words "five millions," and replace them with the words "one million two hundred thousand," being under consideration,

Mr. GALLATIN said, he wished to withdraw a part of his amendment, by leaving the sum blank, hoping that the Committee would take care to inquire into the actual situation of the account betwixt the Treasury and the Bank. Whilst he was up, he would mention, that it seemed to have been supposed, from what he had said on Friday, that he was hostile to the Bank of the United States, having called the Public Debt, as it related to the interests of the United States, a public curse. He said, in saying this (which he maintained to be true) he meant not to reflect upon the Bank, or any other of their creditors: he thought, on the contrary, they were under obligations to the Bank. The resolution was then agreed to. The Committee rose, and reported the first and fifth resolutions, which were agreed to, as follows:

Resolved, That the Secretary of the Treasury be directed to prepare, and report to the House of Representatives, at its next session, a plan for laying and collecting direct taxes, by apportionment among the several States, agreeably to the rule prescribed by the Constitution, adapting the same, as nearly as may be, to such objects of direct taxation, and such modes of collection, as may appear, by the laws and practices of the States, respectively, to be most eligible in each.

Resolved, That the sum of _____ dollars ought to be obtained, to discharge the debt due to the Bank of the United States, by creating a stock bearing an interest of six per cent., and irredeemable for _____ years; the redemption thereof to commence thereafter, and to be payable in _____ yearly instalments.

Ordered, That a bill or bills be brought in, pursuant to the last resolution, and that the Committee of Ways and Means do prepare and bring in the same.

LAND OFFICES NORTHWEST OF THE OHIO.

Mr. W. SMITH moved that the House should again resolve itself into a Committee of the Whole on the remaining resolutions; but Mr. WILLIAMS and some other members, wishing that the bill for establishing Land Offices for the sale of the Northwestern Territory might have the preference, the House resolved itself into a Committee of the Whole, and the first section having been read—

Mr. VAN ALLEN moved to strike out certain words, and to introduce others, for the purpose of limiting the quantity of land to be sold the first year, on the plea, that if too much of the land was brought into the market at once, it would either sell for a mere trifle to speculators, or it would not sell at all.

This amendment was supported by Messrs. ISAAC SMITH, HOLLAND, WILLIAMS, HEISTER, and HAVENS; and opposed by Messrs. HARTLEY, NICHOLAS, SWANWICK, DAYTON, KITCHELL, and S. SMITH. It was negatived.

The second section of the bill being under consideration, Mr. HOLLAND wished to make an amendment, in order to accommodate the poorer class of farmers, by striking out the words 640,

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and to insert 160 in their place, so as to reduce all the 640-acre lots into lots of 160 acres each. The motion was negatived without debate.

The third section was amended by fixing that all the lands west of the Great Miami should be sold at Cincinnati, and the rest at Marietta.

No amendment in the fourth section; in the fifth, Mr. SITGREAVES proposed, instead of a forfeiture of land in a failure of non-payment, to take the usual security of bond and mortgage. This amendment was opposed by Messrs. W. SMITH, NICHOLAS, HARTLEY, SEDGWICK, DAYTON, and WILLIAMS. Negatived.

An amendment, that a deposit of five per cent. on that part of the purchase-money for which credit was to be given, should be made at the time of sale, was agreed to.

The Committee then rose, and had leave to sit again.

A communication was received from the Secretary of the Treasury with a letter from the Comptroller, with an account of the salaries paid to the officers employed in receiving the duties on imports and tonnage. Referred to the Committee of Commerce and Manufactures.

TUESDAY, April 5.

The House took up the amendments of the Senate to the Indian trading-house bill, and resolved to insist upon their disagreement to the Senate's amendments.

Ordered, That a Committee of Conference be appointed to confer with the Senate on the subject-matter thereof.

LAND OFFICES NORTHWEST OF THE OHIO.

The House, in Committee of the Whole, again took up the Land Office bill.

The 6th, 7th, 8th, and 9th sections of the bill were agreed to, with a few amendments of little consequence.

Mr. WILLIAMS moved that the 10th clause (which enacted that military warrants should be allowed to be paid for one-seventh part of purchase of land) should be struck out. He said he had on a former occasion given his reasons for wishing this clause to be struck out, and he believed there was no necessity for repeating them. If there were any objections to the measure, he should be glad to hear them.

Mr. NICHOLAS hoped the clause would be struck out. It would be best that a tract of land should be laid off by itself upon which these warrants might be laid, as, in the way proposed originally, six millions of acres must be sold before the warrants would be satisfied.

Mr. DAYTON (the Speaker) said, it would be best that the clause should be struck out, not because it offered a better chance to the military warrants (which was the ground of objection with the gentleman from New York) but as worse than any other. On consulting with persons who had earned and held these warrants, he found it would be better that a tract of land should be set apart for them; as it would be likely that it would take

them ten years to locate their warrants by the mode prescribed in the bill, as they could only be laid out in proportion to the quantity of land sold. He hoped the men who held these warrants would, at length, have justice done them. The tract which it was proposed to appropriate for them was land of a middle quality, lying between the land of the Ohio Company and Sciota river. This seemed to be approved, and he was, therefore, for striking out the clause.

Mr. WILLIAMS said, it mattered not to him from what motive the clause was struck out; if it was struck out, he knew it would be of considerable advantage to the sale. Agreed to.

Mr. CRABB wished to introduce an amendment in the second clause, viz: "that one half of the 640 lots should be sold in lots of 160 acres each." Several members observed, the sense of the House had been taken upon the question yesterday.

Mr. HOLLAND said the present amendment was not a similar question with that of yesterday, but would, in some degree, meet the wishes of gentlemen who opposed it, as this proposition only contemplated one-half of the six hundred and forty acre lots to be divided, whereas the former motion proposed that the whole should be so divided. The principal objects of the bill were to aid the revenue, and one other object ought to be to accommodate real settlers in preference to those who purchased with a view of selling again. This amendment, he trusted, would tend to both those objects. Few men who would be inclined to settle in that country would have so much money as would purchase six hundred and forty acres, and the clause directing a forfeiture of the land would prevent association, as in case of a default in any of their associates the rest would be liable to lose the land they had purchased, and the money they had paid. The amendment proposed would certainly increase competition, and, consequently, the price of the land; and that it would accommodate a large body of men, who would otherwise be obliged to purchase at second-hand, was also evident. It would have another good tendency, viz: to prevent monopoly, which ought not to be lost sight of, as it had ever been held by writers as dangerous to the existence of free Governments. And, what would be allowed to be very desirable, it would accommodate, as much as possible, the poorer class of their citizens—a class of men who were the most valuable in a community, because it was upon them that they could chiefly rely in cases of emergency, for defence, and, therefore, they ought to be accommodated and made happy; to be put into a situation in which they might exercise their own will, which they would not be at liberty to do if they were obliged to become tenants to others. To live in that dependent way had a tendency to vitiate and debase their minds, instead of making them free, enlightened, and independent. By this amendment, this class of citizens would be enabled to become possessed of real property—a situation incident to freedom, and desired by all. As the committee were tired with the business, and their

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minds made up, he did not wish to trespass on their patience. He was a friend of the bill, and his only wish was that it might so pass as to give general satisfaction. If this amendment did not take place, he knew the bill would be reprobated by many. He did not wish particularly to encourage adventurers to that country, but he wished every class of citizens, who had a desire to purchase this land, to have a fair opportunity of purchasing, in proportion to their capital, of the Government, and not from private persons. He wished mankind to be as independent as possible. He did not like the idea thrown out, that these people were likely to fall off from this Government. He thought the peace, and happiness, and attachment of the people, would be more likely to be secured, when the land was occupied by real proprietors, than if possessed by persons who were subject, by being tenants, to the will of others. He thought it a curious idea that had been thrown out, that lest these settlers should become too independent, that the bill should so pass as to produce sparse settlements, lest they, being connected, would involve us in an Indian war. This presupposes, said he, our citizens always to be the aggressors, which he did not admit. But on the contrary, being extended thinly over a large extent of country, they would be an easy sacrifice to the savages, and render their circumstances more miserable. He hoped the amendment would prevail, without which he must be opposed to its passage, although with reluctance, as he was impressed by the necessity of an addition to the revenue.

Mr. HARTLEY thought that if this amendment was agreed to, it would change the principle of the bill. He thought the division proposed would unreasonably delay the survey and increase the expense of it; and that, as the bill now stood, persons might join together and purchase a six hundred and forty acre lot, with as much ease as they would purchase them if smaller. There was no occasion for them to go into such minutiae in the business. He had as much a wish as any one to serve the poorer class of citizens, but thought they should not carry the division farther than they had done.

Mr. VAN ALLEN hoped the amendment would prevail. It would little increase either the time or expense of surveying. The chief alteration it would make would be an increase of the number of sales; but a trifling sum put upon each lot, which would be cheerfully paid, would more than recompense for it.

Mr. COOPER hoped the amendment would not prevail. The intention, it was said, was to accommodate poor men; but, did practice tell them that poor men would buy these lots when divided? He referred to sales of land in the States of Pennsylvania and New York, where, though land was sold in small lots, there were not twenty instances of farmers buying it. The moneyed men had always been the purchasers at those sales, and he apprehended it would be the case in the sale of this land.

Mr. CLAIBORNE was in favor of the amendment.

He did not think there would be any considerable expense attending it. He thought the more the lands were divided the greater would be the competition; and if this were not the case, he was apprehensive that though land might be worth six dollars an acre, they would not sell for more than two. He was, therefore, for so dividing the land as that speculators might not have it in their power to play into each other's hands.

Mr. CRABB said he was induced to bring forward this amendment, because he did not believe, as the bill stood, that one-half their citizens who might wish to become purchasers and actual settlers of these lands, would be accommodated by the present provisions of the bill. The poor man, he said, was more likely to go into that country than the rich, but he insisted that the bill, as it now stood, was a prohibition to all poor men acquiring these lands, and he had heard no argument to convince him the amendment would not be a good one in point of policy as well as justice. Gentlemen had said poor men may join together and so purchase; but there were difficulties attending such associations. A man must not only look to his own resources, but to his associators' resources and integrity, lest by a failure in completing their purchase, the land should revert to the Union. This apprehension would prevent in a great degree such associations. The dividing of the land into small lots would put it into the possession of real proprietors, and have a tendency to make good Republicans instead of servile tenants dependant upon tyrannical landlords. It would not be denied, that the more land was divided and subdivided the stronger would be the settlement, and the more firmly would be the people's attachment to Government; for it was well known that the strength of a country did not so much consist in its great extent as in its compactness of settlements and the attachment of the people to the Government. By this means, he said, encouragement would be given to useful, industrious men, and it would not be in the power of a few men to engraft the whole.

Mr. C. said it might even require two or more poor men to purchase one hundred and sixty acres, and this, he trusted, was not a consideration too low to occupy the attention of that House. For his part he could see no reason which could be urged against passing of the amendment he proposed, since it would not only serve a valuable body of people, but would tend to get more money into their Treasury by opening the door and inviting a considerable class of citizens to market. He said there would remain one-half the land in large tracts to meet the demands of moneyed men; one-fourth in tracts of six hundred and forty acres to accommodate substantial farmers; and that House could not, he trusted, refuse the small portion asked for to accommodate the poorer class of their citizens. Some gentlemen had urged that people would never travel so far to a new country to acquire so small a portion as one hundred and sixty acres of land. He was of a different opinion. Lands had become so high in most of the old States, that the hope of acquiring possession of

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the soil, and becoming independent, was lost; and the rents of lands had risen so high, that the tenants sorely felt the oppression of their landlords, and their last hope of releasement from this oppression was by emigration to this new country, which they looked on as common property. And will this House, he exclaimed, blast this last remaining, this flattering hope, this natural and laudable desire of independence? He hoped not. One more observation, he said, he would beg leave to make, and he would conclude and leave the amendment to its fate. This observation he meant to apply to those that thought men would not emigrate to acquire and possess so small a property as this. He replied, that the poor and the oppressed had the greatest inducement of all men to emigrate. And the man must know but little of human nature indeed, that did not believe that when a man had been in a state of dependence, and by strenuous exertions of industry, rigid economy, and frugality, had saved a small sum, which would scarcely buy him a garden in the old settled countries where land is so high—has not such a man, Mr. C. said, the most cogent reasons to move to this new country where he could, with three hundred and twenty dollars, become an independent master of soil sufficient comfortably to support his family on? And give me leave, said Mr. C., to tell those gentlemen, that the man possessing one hundred and sixty acres of land, in his own right, under those circumstances, feels the sweets of it as much, and thinks himself as independent, and perhaps more happy, than the lordly nabob that holds a million, not acquired by the sweat of his brow.

MR. WILLIAMS was in favor of the amendment, as he thought it would be productive of the best consequences, as it would encourage freeholders, and get a good price for the land. It was certainly their interest so to parcel off the land as to meet every degree of purchasers. He was at first for dividing the whole of the land into small tracts; but he believed if they laid a part of it off in one hundred and sixty acre lots it would answer every purpose. He said the dividing of half the six hundred and forty acre lots each into four parts would be attended with little expense; and whatever expense it might be, it would be more than repaid by the advanced price it would command. Besides, it was a duty incumbent upon them to accommodate every class of their citizens; by doing which they did an essential service to their country; as the best way to make a man love and serve his country was to make him interested in it. It was, therefore, much better that they should accommodate useful industrious citizens than that they should put their land into the hands of rich speculators to exercise their will upon.

MR. COOPER again insisted that poor men never attended at any sales which had been made for the purpose of purchasing land, but that they always got it from the large purchasers.

MR. GALLATIN hoped the amendment would pass. He did not think any solid objection had been made to it. It must be agreed, that if any number

of men, however small, would be accommodated, by dividing one-half of the six hundred and forty acre lots into lots of one hundred sixty acres each, the competition, and consequently the price of the land would be increased. The gentleman from New York [MR. COOPER] had said there were no such men who would purchase. How did he know this? Was he informed of the number of small farmers who wished to go into that country? Certainly not. He went entirely upon supposition and analogy. He informed the House, that in the States of Pennsylvania and New York, poor men never purchased any lands in the sales which were held there. With respect to Pennsylvania, he could say the gentleman was totally mistaken. He would maintain that not more than one thousand persons in the State of Pennsylvania had purchased large tracts of land; the other seventy thousand inhabitants were mostly possessors of small tracts. The cause of its being sold in large tracts at all was the quantity offered for sale at once, and the low price at which it was sold. It was evident that by selling a part of the land in these small lots they should get a greater competition in the sales; for, if a greater quantity of land be offered for sale than a certain description of men have money to pay for, though they would gladly purchase a smaller lot, they cannot become bidders for lots they are not able to pay for. The other analogy which the gentleman refers to in the State of New York, was a sale of land, at a time when the sale of land was very dull, and land was not wanted. Objections had been made to this plan of dividing, on account of the expense of surveying, and the time it would take to make the survey; both of which he thought perfectly groundless. The expense would be trifling, and would be more than repaid by a small sum put upon each farm; and the time it would consume in making the additional survey would throw no obstacle in the way of the sale. He therefore saw no objection which could be reasonably urged against this amendment.

MR. S. SMITH thought the same question had been negatived yesterday. If the mover would alter the size of the lots to three hundred and twenty, instead of one hundred and sixty acres, he would vote for the amendment.

MR. NICHOLAS hoped the amendment would not prevail. He did not believe it would be of any real use. He need not say that he was as much a friend to the poor man, and of a Republican Government, as any man. But he did not believe, except it was the few persons already in that country, that the proposed division would accommodate one man. If the gentlemen would consider what was necessary to be done before a man became purchaser of this land, they must be convinced of the truth of his assertion. A man intending to purchase must first go and explore the country, in order to find out a piece of land which would suit him; and it would not be sufficient to fix on one particular spot, because others might want the same. The uncertainty of vendue would also prevent many from going into the country to make the necessary examinations.

Persons of small property would rather wait till the sale was over, and the land come to be laid out and divided into farms. The persons whom the mover and supporters of the present amendment had in view would not embrace the offer meant to be held out to them. He did not think one such person would attend the sale. The additional expense of the survey, he said, would not be less than two hundred dollars on every township. This was a certain expense which he thought they ought not to go into for the possibility of accommodating a small number of purchasers. He hoped the proposition would not be agreed to, as there would be an additional expense attending the survey of fifty thousand dollars, and he believed it would not be repaid by the advantage of the proposed sales.

Mr. FINDLEY said, if he could believe the expense of surveying would be so great as had been stated, he would never agree to a Land Office being opened at all. If the land was offered in such parcels as that farmers could only become purchasers at second-hand, he did not think the land would be sold, as the best land in the State of Pennsylvania was now offered at that price. But if it were only the few in the neighborhood of these lands who would be accommodated by the proposed division of these lands into small lots, it was very desirable it should be done; for those few, he believed, were several thousands, who had built and made improvements upon the land, and to remove whom would be a task which he was sure the Government would not willingly undertake. Would it not, therefore, be very proper to divide the land in such a manner as that these present occupiers may become purchasers? The present rage for going into that country was great. Land and provisions had become high in the Atlantic States, and some persons were so desirous of emigrating, that, if they could not go upon this land, they might be inclined to go out of the Territory of the United States. Gentlemen say they ought to be certain there would be purchasers before they thus parcelled out the land. He thought the probability was very much on their side, and no gentleman could be certain there would not be purchasers for small lots. Persons were more generally inquiring for 100-acre tracts than others, and it behooved them to provide for such persons. The gentleman from New York [Mr. COOPER] had made frequent allusions to the State of Pennsylvania. When the land in that State was sold it was generally in the power of the Indians, and was disposed of in large tracts; but in that part of the country in which he lived, few farmers had more than 300 acres. But the law for dividing that land gave a tone to the settlement of the country. There were very few large tracts in Pennsylvania. He was desirous they should give a tone to the settlement of this country. The smaller the tracts were made, the more saleable they would be. Great numbers of persons were going to that country, and others would follow. It was improbable that rich land-holders would go there: the emigrants would be chiefly of the poorer class. The additional expense of surveying would be repaid by

a small addition of fee to the 160-acre lots. Tracts of this size, he said, would command a higher price. He should wish that there might be a portion of the land in tracts of half a mile square, or 320 acres. He thought lots of both sizes might be made, and that would meet the ideas of the gentleman from Maryland.

Mr. VAN ALLEN and Mr. NICHOLAS said a few words upon the expense—the former insisting that it could not be anything like that stated by the latter.

Mr. MILLEDGE thought there was no necessity for taking up the time of the Committee any longer on the subject: he believed there was not a member who had not made up his mind.

Mr. MADISON was sorry to add any observations on the subject, after what had fallen from the gentleman from New Jersey; but he thought the arguments which had been used in favor of the proposed amendment had great weight. If the lots of one mile square could be easily divided into four, (which it appeared to him they might,) he could see no reasonable objection to the measure; for, if it could accommodate any number of real occupiers, it was desirable that it should be done. The expense of exploring the country had been urged as an objection; but it occurred to him that a number of persons would go and explore the country without an intention of returning, and consequently the expense of their journey could be reckoned as nothing. Whether so large a portion of the country as gentlemen expected would be settled in this way, he should doubt; but still, he thought, attention was due to them. And he found this to be the opinion of men who lived in that part of the country, and were conversant in the business of dividing and selling lands. He was not sure whether the amendment was worded in the best way possible.

Mr. HARTLEY again objected to the division of the land into small lots, on the ground of expense and the time it would take to lay them out. He added, that the Senate would not agree to this division, if it were to pass that House.

Mr. HAVENS was surprised to hear the amendment objected to on the ground of expense: he said the expense would be trifling. The surveyors would only have to mark every half mile, and to run the same line on the map.

Mr. VAN ALLEN said, that every objection to expense might be obviated by an amendment that the land should be divided on the map without running the lines.

Mr. COOPER spoke again in opposition to the motion, and said they might as well lay out garden spots as propose these small lots.

Mr. HEISTER hoped the bill, thus modified, would pass; and that, when the interest of the Treasury, and those of men most likely to become settlers were united, there would be but one opinion upon the subject. The gentleman from Maryland had said that application had been made to him on the subject; and he could say that many such had been made to him by persons who wished to go into that country. The land should be laid off in tracts suitable to the pockets of these people, in

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order that they may become land-owners in common with others. There were many persons without the bar of the House that could give information on the subject, if it were necessary. Some might wish to purchase a mile square, some half a mile, and a greater number 160 acres. It would be the interest of Government to accommodate them all, and he hoped no objection would be made to the present amendment.

Mr. VENABLE wished the lines might be so run as that no dispute might arise hereafter. He was in favor of the principle of the amendment: it would accommodate more people than any other clause in the bill. It would require from 300 to 500 dollars to purchase one of these small tracts, which was no inconsiderable sum. He doubted not a number of farmers' sons would go into that country without any intention of returning, and therefore no expense could be reckoned on their exploring the country. It was right those persons should be accommodated; nor did he think it would be found either difficult or expensive to carry the amendment into effect.

The amendment was put and carried.

Mr. VAN ALLEN observed, that the selling one-half the land in lots of three miles square, or 5,760 acres, as contemplated by the bill, appeared to him to be a measure replete with such evident advantages to that part of the wealthy class of citizens whom they had been in the habit of styling speculators, that he conceived it his duty to state his objections to it, and, if in his power, to obtain an alteration. He moved an amendment which went to selling no larger lots than 640 acres.

He considered the land now about to be sold as the joint and common property of every citizen in the United States, and that therefore it ought to be disposed of in such manner as would best promote the general interest of the whole community: that, if this idea was a correct one, it would naturally lead to an inquiry what would be such disposition: the result of which he believed would be, first, to accommodate actual settlers; and, secondly, to bring money into the Treasury; and added, that, as he conceived the first to be the greatest object, it ought to be attended to, even if it would in some degree require a sacrifice of the other. But he hoped it would not be opposed, if it could be shown that it might be accomplished without any additional expense or loss to the public.

He observed, that the bill directed the whole tract to be laid out into townships of six miles square; to subdivide one-half of them alternately into lots of 640 acres; and by an amendment one-half of those lots were to be subdivided on the map into lots of 160 acres; that the remaining half of the townships were also to be divided on the map into four equal lots of 5,760 acres, for the purpose of selling them in the above described lots.

He stated, that, by actually running and marking the lines round every four lots that were to be sold, they could be separately granted with as much accuracy and certainty of description as if each had been fully surveyed; that, upon this plan, the whole of the land might be laid out and sold—

the one-fourth part in lots of 160 acres, and all the rest in lots of 640 acres—with precisely the same surveying which was now directed to be performed; and that, therefore, no additional expense could be incurred.

He then adverted to the sales, and observed, that actual settlers might become purchasers from the Government of lots of 160 and of 640 acres; that none would be prohibited from purchasing; that of course the competition would be increased, and, he believed, the land sell best; that as the large lots would, at the minimum price, amount to 11,520 dollars, settlers were by no means likely to become purchasers, as it was presumable few could command such a sum, and therefore they were as effectually prohibited as if a clause to that effect had been inserted in the bill; that the competition would of course be lessened, and the land purchased chiefly, if not altogether, by speculators, and consequently sell for a less price. One reason which had been assigned for this measure was, that all purchasers might be accommodated. He was willing to accommodate all such as were to be settlers, but no others. No one man, he thought, wanted to purchase so large a lot for his own actual improvement.

It had been said, the price fixed upon the land would prevent speculation. He believed that might be the case if the fixed price was the full value, or so nearly so, as not to afford a profit. But these gentlemen understood figures, and considered more the per centage they could make than the high or low price they paid for an article.

It had been frequently said, and he believed, this was an excellent tract of land; that some of it would sell at from three to eight dollars per acre; and if so, would it not, he asked, afford a handsome profit?

He said, it was fair to presume no land would be purchased to sell again, which could not afford a reasonable prospect of at least 25 per cent. profit. This, at the lowest stated price, would be half a dollar per acre; that about five millions of acres were contemplated to be sold in large lots, which, at this rate, would eventually be a loss of two millions five hundred thousand dollars, besides the difference of the granting fees, (which he made no doubt would nett a profit,) and answer no other purpose than that of enriching individuals; that, to sell the land when it was not wanted for actual settlement, or in a manner which would preclude settlers from becoming purchasers, would be making a sacrifice: that, he thought, could only be justifiable under peculiar circumstances, such as did not now exist; that it was but another way of paying a high rate of interest, and establishing a bad precedent; that, to sell the land in such large lots would, he thought, operate as an indirect tax upon the cultivator—of so much at least as the small lots would sell per acre more than the large—not to say anything about the rise of the land, which would be increased in proportion to the settlements they made, without benefiting the Government. In short, he considered it as an act of favoritism towards that class of citizens, for which he could see no reason, unless it was their having

paid a considerable proportion of the Domestic Debt to the original holders. But he never heard they had been sufferers by it, and he presumed this would not be assigned as the reason.

Mr. V. A. concluded by observing that he did not, from anything he had said, wish to be considered as an advocate for an Agrarian law. He disavowed any such principle, but did not hesitate to acknowledge himself a friend to equality—at least so far as it respects the rights of individuals—and hoped, that if ever any discrimination between different classes of citizens should be thought proper, the poorer and middle class would not be considered the least deserving the care and attention of Government.

The amendment of Mr. VAN ALLEN was negatived, and the Committee rose and reported the bill. The House then took it up, and all the amendments agreed to, without debate, except that for dividing half the 640-acre lots into lots of 160 acres each.

Mr. DEARBORN hoped the amendment would not be agreed to. Persons might choose out the cream of the land in these small lots, and the rest would be left on hand. In attempting to do right in the extreme, he was apprehensive they would injure the United States more than they would benefit individuals.

Mr. W. SMITH thought the amendment injured the bill, and instead of benefiting poor people, it would benefit shrewd moneyed men, who would avail themselves of this provision to lay hold of the choicest spots of land.

Mr. RUTHERFORD hoped this clause would be agreed to, as it was the only favorable clause to the real settler in the bill.

Mr. S. SMITH moved to strike out "160," and insert "320."

Mr. CRABE hoped the amendment would not take place. If 320 acres would accommodate some persons, he was certain that 160 would accommodate more. The gentleman from South Carolina [Mr. W. SMITH] had said the original amendment would hurt the bill, but it was his opinion the bill would be greatly hurt to strike it out. Inasmuch as it had already been determined in the Committee, he did not believe the House would consent to strike it out.

Mr. COOPER said, that though the amendment would be the means of putting 10,000 dollars into his pocket as a land-buyer, yet, as a legislator, he should oppose it.

Mr. CLAIBORNE observed, if the amendment did accommodate the gentleman with 10,000 dollars, he was of opinion he would have to pay a good price for the land, as it would be sold by auction. It had been said all the good land would be taken away, and the bad left. He said it was no matter, if they got as much for the good as the whole was worth. To destroy the amendment, would be to destroy the best part of the bill; to defeat this clause, would be to throw the land into the hands of speculators, and put it out of the power of the poor, but industrious farmers, to purchase at the first-hand.

The question was then taken by yeas and nays

upon the amendment to the amendment, which was lost, as has been stated; and then upon the original amendment, which was carried.

An additional section was added to the bill, to preserve the navigable rivers free from obstruction; and the bill was then ordered to be engrossed.

WEDNESDAY, April 6.

LAND OFFICES NORTHWEST OF THE OHIO.

An engrossed bill providing for the sale of the lands of the United States, in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river, was read the third time, and the blanks therein filled up.

Resolved, That the said bill do pass, and that the title be, "An act providing for the sale of the lands of the United States in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river."

Mr. TRACY delivered in a report from the Committee of Claims, on the petition and letter of Governor St. Clair, which recommended a law to be passed to include his and similar cases.

Mr. W. SMITH, from the Committee of Ways and Means, presented a bill making provision, in part, for the Debt due to the Bank of the United States; which was twice read, and referred to the Committee of the Whole on Monday.

A message was received from the Senate, informing the House that they had passed a bill regulating the compensation of Clerks, and asking the concurrence of the House. The bill was read twice and committed.

THE BRITISH TREATY.

After disposing of some petitions, the House took up the order of the day, on the Message of the PRESIDENT in answer to the resolution of the House calling for certain papers relative to the Treaty lately concluded with Great Britain; [the proceedings on which have been heretofore given.]

THURSDAY, April 7.

The House proceeded to consider the report of the Secretary of the Treasury, on the memorial of Tobias Lord and others, which lay on the table. Whereupon—

Resolved, That the consent of Congress be declared to such an act as the Legislature of the State of Massachusetts may judge proper to pass, for imposing a tonnage duty on vessels entering into Kennebunk river, in the District of Maine, sufficient to defray the expenses incurred by Tobias Lord and others, in erecting a pier near the mouth of the said river.

Ordered, That a bill or bills be brought in, pursuant to the said resolution, and that the Committee of Commerce and Manufactures do prepare and bring in the same.

Mr. GOODHUE, from the Committee of Commerce and Manufactures, made a report on the resolution referred to them, respecting allowing a duty to be paid according to the quantity of spirits distilled, instead of the capacity of stills, in cases of a failure of crops; which was read twice, and

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ordered to be referred to the Committee of the Whole on Monday. It was in favor of the measure.

The committee appointed to inquire whether the Army had been regularly paid according to law, so as that no part of it had been more than two months in arrears, reported that many had been from four to six months, and some twelve months in arrears of their pay; but that, owing to some regulations having taken place in the War Department, similar failures were not likely in future to take place.

The order of the day being called for on the consideration of the PRESIDENT'S Message, the House resolved itself into a Committee of the Whole on that subject; and after debate, the question was taken upon the resolutions. [For the proceedings on which, see *ante*, page 783.]

NAVAL ARMAMENT.

The House then resolved itself into a Committee of the Whole, on the bill which originated in the Senate, supplementary to an act, entitled "An act to provide a Naval Armament."

Mr. NICHOLAS called for the reading of a report of a committee of that House on the subject.

It was read accordingly: it recommends that two frigates should be finished, the perishable materials sold, and the rest laid by.

Mr. W. SMITH moved to strike out the first clause of the bill, which provided for the completion of three of the frigates in order to introduce a clause providing for the finishing of all the frigates.

Mr. SWANWICK was in favor of the motion. He said it was wonderful, that notwithstanding their revenue almost wholly depended upon their commerce, no step had ever yet been taken by Government to guard it against the attacks of foreigners; on the contrary, this great source of advantage to this country constantly lay at the mercy of the European Powers. When they considered the great advantages which foreign commerce bestowed upon the nation, and the profits it afforded to individual merchants, mechanics, &c., and indirectly to the agricultural interests, ought they not to afford it every protection in their power? Surely they must conceive that this milch cow of the family, deserved more attention than had ever yet been given to her. With what horror did every description of persons throughout the Union hear of the capture of their fellow-citizens by the Algerines! How great was the effect upon the public mind! Subscriptions were everywhere raised for their relief; the sensibility entered into private families; comedians gave benefit nights to this use, and every possible exertion was made to effect their relief. Was this showing a coldness with respect to commerce, on the part of the people; No. What did the Government do? Finding that money was the only way they had of obtaining a peace with the Dey of Algiers, a peace has been purchased at an enormous price. And would it be prudent in them, immediately after this was effected, to show to the Dey of Algiers their weakness and decrepitude? that they were determined

to become less energetic in proportion as they became more rich and powerful? There was no more effectual way of encouraging this corsair, than, after determining to build six frigates, to reduce them to two or three. And what, said he, would the Powers of Europe think of us? That, whilst we were laying the foundations of new cities, and flourishing in every respect beyond calculation, when we were about building a few frigates, we were alarmed at an expense of four hundred and fifty thousand dollars. Will they not say, they are building cities and leaving them defenceless? Indeed there was no security against the bombardment of the new city, or any other of their possessions, whenever an enemy chose to undertake the business, their extensive coast being wholly defenceless. But it was said, what will six frigates do for the defence of their coast and trade? He answered, it would be laying the foundation of a navy, which they could increase as the resources of the country should make it convenient. 'Though we were apt to speak lightly of our own strength, we were considered as formidable abroad. The question was not, now, whether they should build six frigates; but whether, having begun them, they shall go on to finish them? If the question was on building the frigates, to answer in the negative would not show such weakness, as, in the case of having voted them, now to vote in part their discontinuance. Was this of a piece with the act they passed the other day for the relief and protection of their seamen? Which ever way he considered the subject, whether upon the principles of policy or economy, he could discover no ground for discontinuing the building of any part of the frigates. For, as to economy, if their frigates had been built, he apprehended they should have saved the very large sum which had been paid to Algiers; and the property in the country, which must be looked upon in some degree insecure at present, would be made secure from the attacks of any marauding privateer. What was a frigate? Was it not made up of materials of their own growth and manufacture? and did not the building of them employ their own citizens? They sent none of their money abroad to purchase a single article. Very contrary this to paying a million of hard dollars to a foreign Power. The farmer, the merchant, the mechanic, were all benefited by the money expended upon the building of a frigate. Nobody lost anything. But gentlemen might say, shall we lay new taxes to raise this money? Every one had an idea that money would be wanted for this purpose, and he doubted not it would be cheerfully paid. They could surely borrow money for the purpose of protecting their trade, as well as for the erection of buildings for the Government at the Federal City. But after all, it was said, they should be weak with respect to other Powers. They knew that a certain Power had got a mastery over the sea, owing to her extensive commerce; but though she had hitherto proved an overmatch for any single Power at sea, yet France, Holland, Spain, Sweden, and Denmark, have all of them respectable fleets, which,

though they were not so powerful as the British, they were little in danger from that Power when united. How were the United States situated in this respect? Denmark and Sweden had an armed force; but by their not having any, they had been compelled perhaps to enter into terms which they otherwise might not have thought of. And on this account, he had less fault to find with their negotiators than he otherwise should have; for he did not think that the House had done all they might have done to strengthen the hands of the Executive. A few frigates on their coast might have prevented much of the mischiefs complained of. If they had such on their coast, they would not have heard the other day of a vessel being taken near the New York light-house, or of insignificant privateers sometimes plundering us almost in our own harbors. It might be said, that if their frigates had been out, they might not have prevented the capture; but it is probable, if it had been known that they had frigates on their coast, the attempt would not have been made. But when he considered their defenceless situation, he was not at all surprised at the depredations committed upon their property at sea.

Mr. S. said he was not afraid of any fault being found with the expense which would be incurred in finishing the frigates; it was a measure very generally wished to be carried into effect. He hoped, therefore, they should not march retrograde in this business. Gentlemen would recollect that the Constitution contemplated a naval armament in this country; and he did not think they should act up to the spirit of the Constitution, or according to the expectations of foreign nations, or their own citizens, if they neglected this opportunity of laying the foundation of a navy. He had had great pleasure in walking along shore, to hear the remarks of foreigners on the vessels now building, with respect to their construction, the goodness of the materials, &c., but what will they say when instead of proceeding to finish these vessels, the materials are offered at vendue, and the Government made to become auctioneers in fact of the materials of the national strength! He concluded by hoping, that whilst they were firm in asserting their rights in their internal concerns, they would not wholly neglect the protection of their exterior commerce, which would amply repay all the care bestowed upon it.

Mr. BOURNE said, it was a condition of the original act authorizing a Naval Armament, that all operations in building the frigates should cease in case of a peace with Algiers. He agreed in opinion with the gentleman who had spoken on the subject, that all the frigates should be finished; but he wished it done in the way proposed by the bill from the Senate, viz: three with all convenient speed, and the remainder when the price of labor and materials shall be of less value. If gentlemen would attend to the report signed by the Purveyor of Public Supplies, the naval architects, &c., which was sent from the War Department to the committee on the subject, they will find that those officers were of opinion that two of the frigates would be finished in November. So that

he did not see the use of ordering them all to be immediately equipped, when two only could be finished by November. He was in favor of agreeing to the bill from the Senate, in preference to the report of the committee of that House, nearly all the materials being provided or contracted for the whole six frigates; and also because the objection of the committee, founded on the want of means, was done away. The report of the Secretary of War stated that the finishing the two frigates, including the expenditures for materials for the six, would swallow up the whole of the money appropriated; but the bill from the Senate had appropriated the \$80,000, which was meant for a provisional equipment of galleys. Those \$80,000 would not be sufficient indeed to defray the expense of finishing the additional frigate, but they would go a great way towards it, and it would not be difficult to provide the rest. He hoped therefore they should agree to the bill from the Senate. The committee of the House reported that two frigates only should be at present completed, and the rest suspended; but the Senate have added a third, and that the remainder shall be finished when the price of labor and materials shall be more moderate. What induced the Senate to this alteration was, he believed, information from abroad that no reliance could be placed on a continuance of the peace with Algiers but an equipment of force adequate to meet the force of Algiers. He wished the gentleman from South Carolina would, therefore, withdraw his motion, and agree to the bill sent from the Senate.

Mr. WILLIAMS said it appeared to him that the Naval Armament was first projected on account of the depredations committed upon their ships, and their sailors taken into captivity by the Algerines. He believed the bill would not have passed, had it not been for the clause which went to suspend the operations in case of a peace with Algiers. A peace was now made with Algiers, at the price, he believed, of above a million of dollars, and an annual payment of twelve thousand sequins, which was between twenty-three and twenty-four thousand dollars. Yet, notwithstanding this, gentlemen seem inclined to go on with building the frigates, as if no such peace had taken place. If, indeed their coffers were full of money, and they did not know what to do with it, this might be done; though, in that case, he should be opposed to the measure, because he believed that if they had a navy they should soon have a war. Two or three days ago, he said, they were discussing the most proper way of raising additional revenue. Some gentlemen proposed direct taxes, others indirect taxes; but the anticipations already become due they were obliged to fix, and they had that most odious thing before them, a stamp act. When he thought of this, he was astonished to think gentlemen should be willing to go into the expense of these frigates, as if their political salvation depended on them. How many frigates had they in the last war? Do not gentlemen remember what became of them? Did they think these the best means of defence for this country? Has not experience shown the reverse? Let them

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count the number of ships of the European Powers, and say whether six frigates would be of any service against them. He thought that letters of marque, or vessels employed in commerce, were the best fighting ships for them in cases of necessity; they were no expense, and answered the purpose much better than frigates. Frigates cost vast sums of money, employed a great number of seamen, in time of peace as well as in time of war, and when they were taken by the enemy gave them a great accession of strength. Were they to have six frigates at sea, they would soon find an enemy, and perhaps be the means of involving the nation in war, when they might otherwise have been at peace. It was not, therefore, prudent to have a Naval Armament, until they could have one that might command respect.

The gentleman from Pennsylvania [Mr. SWANWICK] had dwelt upon the extent of their commerce; but he would ask that gentleman whether six, or thirty-six frigates would be sufficient to protect their trade? The same gentleman had also mentioned that different Powers in Europe combined together; but why mention them? Were those Powers to be compared with the situation of America? It was necessary there to keep up the balance of power; but we were three or four thousand miles distant from them, and it was by no means in point. We were sufficient to manage our own concerns without European support. The true interests of this country, in his opinion, were the agricultural, and every thing taken from agriculture to commerce, was taken from the greater and given to the less. If they had not a single ship, he said, they should sell their produce. No doubt, foreigners, whilst eating is in fashion, would come to purchase their necessities of life; all we had to do was to undersell other markets. And he would venture to say, that if they could not support their commerce without a Naval Armament, all the advantages derived from commerce would not pay the expense of it. All the exports of this country, between September 1792 and September 1793, in the Mediterranean, to the Italian States, and Morocco, were to the amount only of between two and three hundred thousand dollars. Were they, he asked, to tax their agriculturists, to pay for frigates to protect a trade like this? Were there no vessels that paid imposts but their own? If they went too far into commerce, it would hurt their true interest, the agriculture of the country. If gentlemen say, having gone so far with the frigates, it was necessary to finish them, he would say Government could never build ships so cheap as individuals. They must establish a Marine Department, something like a War Department. Fix but an office and there will soon be something to do at it. Happily for America, the Constitution directs the Legislature not to appropriate for her Army Establishment only for two years; but for a Naval Armament they might appropriate for any term. At this time, he said, they had no act to establish a navy: he hoped they should have none. If once their fleet began to increase, offices would increase also: and he did not expect

to find virtue enough in that House to prevent such increase; and when there were many offices to give, it begot a system of favoritism, very unfavorable to a free, Republican Government. It was easier to prevent the passing of an act, than to repeal it when passed. Why, then, he asked, this unnecessary expense? There was no occasion for it; for, if they were sure of being involved in a war next year, he would oppose the building of frigates. He thought letters of marque, fortifications, and floating batteries, were the best defence of this country in our present circumstances.

Mr. S. SMITH said, if the question before them was, which was the best kind of defence for this country, he should not agree with the gentleman from New York; but he believed the motion before the committee was for striking out the first clause of the bill, for the purpose of leaving it with the President to finish the whole of the frigates. The President informed them, at the opening of the session, and he cordially joined in the opinion, that the United States progressed in all the useful arts, in agriculture, in commerce, and every other valuable acquisition; should they, then, by any act of theirs, declare that they had not the ability to furnish six frigates. He hoped that House would not consent to throw away the expense already incurred in building frigates, not only for the protection of their coast, but for the protection of their property and seamen against the depredations of the Algerines and others. The gentleman from New York had said we had paid a very great price for a peace with the Dey of Algiers; but he forgot that there were two other Powers, viz: Tunis and Tripoli, with whom no accommodation had taken place. He had also forgot to say that the peace entered into would not be lasting, if the frigates were not got in readiness. These facts were not to his purpose, but they were necessary to be known in that House. If they were to send three frigates into the Mediterranean, it would convince the Barbary Powers that we were not that insignificant people represented, but that we were ready to chastise them, if they attempted to annoy our vessels in future. The gentleman proposed letters of marque, because they were no expense; but, though they would be no expense to Government, they would be an expense to individuals. And was it the duty of merchants, or of the General Government, to protect the commerce of the United States? He had always understood that when people entered into society they had a right to expect protection, and that allegiance and protection went hand in hand. Did Government refuse its protection to the agricultural interest? Had it not lately cost the Union a million and a half to protect the frontier? And what revenue did the frontier yield? None. But it has been contemplated it will yield much. He believed it would, and it was the duty of Government to protect them; but was it less the duty of Government to protect its commerce? No, certainly not; and they had a right to expect it. The gentleman from New York had also asked, were they to be compared to the petty Powers of Europe? No, they were not; for they, when insulted, armed, and

determined to have redress, and they got it. The difference was, therefore, not in their favor, nor to their honor. If they had had a navy equal to those Powers, they would not have borne the insults which had been heaped upon them.

Naves, however, were not under consideration, but it was their situation with respect to the Barbary States. It was not good policy to put the country to an unreasonable expense; but it was only just that the property of citizens should be protected by sea as well as by land. The gentleman from New York had said, the true interests of the country were the agricultural, and then endeavored to excite jealousies between the two. He said their interests were one, and they equally promoted the prosperity and happiness of the country; without the other, neither could be supported. The gentleman had gone further, and said, whether they had a ship or not, foreigners would come to their country to purchase their produce. He said he was a native citizen, and he looked with pleasure on the exertions of native citizens. Were they (said Mr. S.) to depend upon foreigners alone? If they had done so, what would now have been their situation? Many gentlemen had doubted whether they would have provided ships enough to have carried their own produce; but they had not only built ships to do this, but also to carry merchandise from one part of Europe to another. Should they, then, abandon their commerce? He trusted the opinion expressed by the gentleman from New York would never be the opinion of that House.

The gentleman from New York also stated what was the amount of their trade to the Mediterranean at a certain period. It might be true, though it appeared strange to him. But did the gentleman know that few merchants would risk their vessels into that quarter for fear of the Barbary Powers? He knew the Mediterranean well; he had been there, and his mind was scarcely capable of conceiving the great advantages which would arise to this country were the navigation of that sea perfectly safe. It would be greater than all the commerce we now enjoyed. A better price could be got for most of their articles in that quarter than any where else. Would they, then, for the sake of a trifling expense, give this commerce wholly to foreigners? It might suit the gentleman from New York to employ foreigners, but he trusted it would never be agreeable to that House.

He hoped the House would agree to the motion of the gentleman from South Carolina, but if not, to the bill as sent from the Senate.

Mr. PARKER was sorry he could not agree with the gentleman who made the present motion. He did not think it would be prudent to finish the whole of the frigates at present; it would be an unnecessary waste of money. For, though he should be glad to see the national flag respected, yet he did not see the necessity of proceeding to build more than three vessels at present. A small force, he said, would be equal to the protecting of their trade in the Mediterranean; for, peace having been made with Algiers and Morocco, the

power of Tunis and Tripoli was inconsiderable. The three frigates to be built by this act would be more than sufficient to combat the power of Tunis and Tripoli, if we could not make peace with them, and would give respect to our flag in the Mediterranean. The Algerines would see we had a naval force, and would be convinced we could increase it if we could not continue truce with them. Hence, as they had made a peace with us on advantageous terms, they would continue it rather than break with us, as it was well known, from the experience of Portugal, that a force equal to four of our largest frigates could keep within the port of Algiers their whole naval force.

With respect to what had fallen from a gentleman from New York, in reference to letters of marque, he did not think it necessary to answer it. Indeed, the gentleman from Maryland had done it so completely it was unnecessary for him to notice his doctrine. As to the trade of the Mediterranean, he believed he knew little about it. He had been assured, from authority which he could not doubt, that if the Mediterranean could be navigated safely, not less than three hundred vessels might be employed in that trade. Indeed, from the information that had come before the committee on the subject, he was convinced that that quarter would prove a profitable market for most of their produce. The fish of New England, tobacco, rice, &c., would find ready sale. Wheat, he believed, was not in great demand. Being convinced of this, the committee were desirous of completing as many frigates as would be necessary to protect that trade. The money at present appropriated, he believed, would be sufficient to complete the frigates proposed, and it would remain for them to determine what should be done with the materials which remain after completing the frigates intended to be completed. For the present, therefore, he should wish the motion of the gentleman from South Carolina to be disagreed to, and the clause in the bill proposed by the Senate agreed to. It would give him pleasure to see some vessels on their coast to prevent the attacks made upon the property of their merchants; but he did not think the present time the most proper to engage in the business.

Mr. W. SMITH did not like the idea contained in the bill, that the building of the frigates should depend altogether upon the price of materials or labor. It carried something rather of a paltry policy with it. The frigates, he said, were either wanted or they were not wanted; if they were wanted, the price of materials or labor should not be an obstruction to their completion; if not wanted, they had better be given up at once. When they were about passing the act authorizing the building of these frigates, there was a considerable difference of opinion on the subject, but no one thought six would be too many. For his part, he thought three would be of little use. He thought, if they were to have an armament, they could not have less than six frigates. He believed the passing of the law which authorized the building of the frigates had had a good effect in the Mediterranean, and if they should only complete three of

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them, it would have a very unfavorable appearance in that quarter. Expense, it was true, was an object; but if they meant to have a Naval Equipment, it could not be had without expense. Gentlemen say they will protect their seamen, they will have a Naval Armament; but when the thing comes to be carried into effect, the expense alarms them, and the thing is abandoned. No expense, he was confident, would be less disagreeable to the people of the United States. They wish to see a navy established. Six frigates were but a trifle, it was true, but they were a beginning. The only question was, whether they should pay \$50,000 or \$100,000 more on account of the advanced price of the materials and labor, and have them finished immediately, or put them off to some future day. If they were to examine, it would be found that countries which now possess the largest Navies had raised them by degrees; it was stated by *Chalmers* that the single port of Liverpool sent out, during the American war, a greater naval strength in privateers than formed the whole naval strength of Great Britain, against the famous Spanish Armada, in the reign of Queen Elizabeth.

The bill before them from the Senate provided for the finishing of three vessels with all convenient speed, and the remainder in such manner and at such time as, having a due regard to the existing prices of labor and materials, the PRESIDENT may think the public good requires; but no appropriation is proposed, and until that is done, the PRESIDENT could probably not proceed with them. Therefore, if the present bill passed, only three frigates would be finished. He believed it would also be some embarrassment to the PRESIDENT to know which of the six ought to be completed. Were the whole finished, he said, they would be very useful as a kind of Naval Academy, in teaching our youths intended for the sea service naval tactics, and have no inconsiderable effect on their negotiations with the Barbary Powers; but if it were known that one year, they had determined on building six frigates, and the next were undetermined whether they should finish three or any at all, it would give foreign Powers a very unfavorable idea of their stability and importance. Gentlemen were apt to talk a great deal about their strength; but when anything was proposed to be done, they were alarmed, and afraid of incurring expense. On this occasion, he was persuaded their constituents would cheerfully incur it for so desirable an object.

Mr. MADISON said, he was one of those who set great value upon marine strength, and would not, therefore, object to any prudent and proper means of supporting it. But it did not appear to him, when the frigates were originally authorized by law to be built, that they would be sufficient to answer the purpose for which they were said to be intended. This opinion had undergone no change. It had been said that the law of Congress for building the frigates had had considerable influence in obtaining the late peace with Algiers; but, judging from the amount of money paid for it, he must be induced to believe that the pecuni-

ary provision alone, and not the naval one, had brought about that event. At present, the subject seemed to present itself under different circumstances from those under which it was formerly placed. A new object was presented to their consideration. It was now said to be desirable to employ some of those vessels on the coast as a defence against pirates and privateers, and not send them to a distant sea to effect an object to which they would be inadequate. Under this consideration, he did not say that it would be improper to agree to the bill, nor did he wish to show a want of means to build such vessels as might be necessary for the security of our coasts. On the other hand, he did not wish to determine that the frigates should all be completed, so as to add unnecessarily to our present expenditures. The farthest he could go at present was, to agree that the three frigates most advanced should be finished, and that a final decision as to the others should at least be postponed until they had gone into the subject of the finances.

There was a modification which would be necessary in the bill. He did not think that if the building of the three remaining frigates was left to the discretion of the PRESIDENT, that it would be proper to give him the unlimited discretion proposed by the Senate. He might let the frigates lie over twenty years, and then build them. This was a question proper for Legislative decision; or, if they parted with it at all, it should be for a limited period of two or three years. This was a motion, however, which could not be made at present; he only remarked upon it for consideration.

Mr. SEDGWICK was in favor of the motion of the gentleman from South Carolina. He thought if the arguments of gentlemen for reducing the number of frigates should prevail, it would show a versatility of conduct in them to foreign nations; for if it was thought to be the interest of the nation when the act passed that six frigates should be built, it now became its honor not to abandon the object. Enjoying the unexampled prosperity, which every one was ready to acknowledge, the expense of completing the frigates could be no object to the country. Besides, he thought it would be making more expense to discontinue a part of them, by increasing the cupidity of the Barbary Powers, than in going on with building of them. This versatility of conduct would not be honorable to the nation. One principal object in view in building the frigates was to guard their commerce against the depredations committed on it by three Barbary Powers. A peace had been concluded with one of these States, (Algiers,) and their citizens were set at liberty. With only one of these States at peace, if they meant to extend their commerce, it would still be liable to the attacks of the other two, if no protection was afforded; and such was the disposition of these Powers, if the building of their frigates was suspended, we should have to purchase peace on their own terms. If the object was, therefore, relinquished, they should have more to pay for a peace with Tunis and Tripoli than the difference in the advanced

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price of materials and labor. If they, therefore, respected the security of their citizens, the protection of their commerce, or the honor of their country, the present motion should be agreed to.

Mr. NICHOLAS said there was no occasion for a new act at all. If he understood the former act, the equipment of the frigates was to be discontinued whenever a peace was made with Algiers. The act was consented to only on that principle. The amendment of the gentleman from South Carolina would defeat itself. The expense of this business, he said, was too much kept out of sight. It would take 400,000 dollars to finish the frigates, and the getting of them out to sea would cost as much more. The gentleman from Rhode Island and his colleague seemed to have been mistaken with respect to the 80,000 dollars appropriated for the galleys. That sum was not in existence. The question was, then, whether they should go into this business. Gentlemen had entered into ingenious discussion to prevail with the House to go into the subject. But if he were asked what effect six frigates would have in protecting their trade, he should answer none at all, but would be showing to foreign Powers that we did not understand the true means of defence which were in our power. It would be lessening, instead of increasing our consequence in the eyes of Europe.

With respect to the Algerines, they had paid a million of dollars, and stipulated to pay twenty-four thousand dollars yearly, for peace. Suppose they were in circumstances to excite the cupidity of the Barbary Powers, it appeared to him that the cheapest was the best way of securing their friendship. They could insure peace for a much less sum than they could build frigates. It was not the first cost that was all, for that would be scarcely equal to the annual expense, which would be at least 500,000 dollars—all which money would necessarily add to their National Debt, or very much increase their taxes. The principle upon which the law passed, he said, did not require it from them. It was passed only with a view to the Algerines. He was willing to go into the equipment of two frigates for the defence of their coast to guard against pirates. He said he was in some degree interested in the commerce of this country; but he must own, if it was necessary to have an armament to support it, he would not have commerce on such terms. But he thought peace might be got on better terms; for he believed there was not such a sink of expense as that of fleets. He, therefore, should not be for purchasing commerce at such a price. The arguments used for laying the foundation of a fleet would be a farther inducement with him to oppose the present motion.

Mr. SWANWICK said, it would appear by the arguments of gentlemen, as if they should have to raise immediately from their citizens, for the purpose of completing these frigates, 400,000 dollars, though it would only be the interest of that sum at six per cent., which would be wanted. They had just agreed to pay the Dey of Algiers the sum of \$24,000 annually, for what might be termed, perhaps, only a truce; but in the case of frigates,

for that sum annually, it would be paying the interest of money which had been laid out for their own materials. They should have the ships themselves for the money; so that in one case there was capital in hand, and in the other nothing at all. The interest of the money was all that could be considered in this case, because they went upon the plan of borrowing, and the frigates would certainly be as good security as the lots in the Federal City. He thought it would be difficult to say why they should guaranty those lots rather than their frigates. He thought gentlemen were greatly out in their calculations, and if they consulted economy, that building of the frigates would best answer that purpose; for, what would they say if, next year, the Dey of Algiers, finding that he had nothing to fear from our frigates, was again to fall upon our shipping? Besides, there were two Powers, Tunis and Tripoli, with whom they had not yet concluded peace, and these would ask terms in proportion to our weakness.

It could not be supposed, Mr. S. observed, that they were the happy few who could enjoy all the benefits of commerce and agriculture, without force to protect them. When they were told that they were situated at an immense distance from other Powers; that they had nothing to do with the balance of power; that they were unlike the small Powers of Europe, it appeared as if they were almost out of the world; yet was anything more frequent than to hear people say, "You will be at war with Spain, with England, if you do so and so?" The truth was, that though Spain and England were at three thousand or four thousand miles' distance, yet they had possessions very near us—their naval and land forces could easily approach us.

He wished to make one remark with respect to the Algerines. There were a number of gentlemen in that Committee, with whom he was frequently in the habit of acting, who concluded, because the Emperor of China had no ships, and yet carried on great commerce, that they might do without ships also; he could not agree with them in sentiment. For, if they were to tell him that the ladies in China cramped their feet and wore shoes like those of children, he should not be for insisting upon the ladies of America to do the same.

Gentlemen had got a notion of carrying the produce of the country in foreign ships; yet, though there was no comparison between their situation and that of the Emperor of China, this doctrine had been industriously disseminated, and was a cankerworm, which, if not destroyed, would destroy their commerce and manufactures, and eventually their agriculture. Gentlemen who were acquainted with history need not be told that agriculture flourished in no country so much as in highly commercial ones. England and France might be quoted as instances. And, indeed, if they looked to their own country, the truth would be sufficiently clear; for, he would ask, when was their agricultural interest at the highest? Was it not at a moment when foreign ships were almost entirely excluded their shores, and when their merchants gave fifteen dollars a barrel for flour, and

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when they could get three dollars a barrel for carrying it to a foreign country? The interests of commerce and agriculture would be forever found inseparable.

Let them consider agriculture in another point of view. All their waters were accessible to ships of the greatest burden, and consequently their shores were always in danger from foreign Powers. Indeed *Montesquieu* had said, very justly, "That those who command the sea command the land also, because they can always choose the scene of operation." Indeed, whatever gentlemen may say, whenever an equal number of years has passed over this country to that which passed between the reign of Queen Elizabeth and George 3d, America will doubtless be found to possess naval strength equal to that possessed by any Power whatever.

Mr. S. said, he founded this idea of the progress of the Naval force of the country on its territory, and whoever looked upon the face of it, must be convinced that it must become a great maritime country. When they viewed the Chesapeake, the Delaware, the extensive seacoast of New England, it must appear likely to become one of the greatest maritime countries in the world. No nation of Europe could compare with it in respect to territory and mighty waters everywhere intersecting it, nor even in tonnage of ships, compared with the actual population.

Gentlemen asked whether six frigates would be likely to have any effect in protecting their commerce and seamen? He believed that they would induce some respect, at least; but if it went abroad that they refused to finish them, it would give foreign powers a contemptible notion, not of ability but disposition to defend ourselves, though by the by, a very ill-founded opinion; for, if their Government was weak, the people were strong. He believed it was the wish of the people that a Naval Armament should take place. The people on the Mississippi and Ohio were now likely to share in the necessity of their Atlantic brethren for protection; those rivers being now opened for them to the sea, he should not wonder to see the sentiments of that House in a few years materially changed on the present subject.

Let them not, with the gentleman from Virginia, calculate so nicely on this business. Gentlemen should recollect that part of their great family (as the people of America were very emphatically styled by a gentleman from Virginia) were navigators; and whilst they were granting the agricultural part of the Union a million and a half for the protection of their frontiers, let them, in their turn, grant the mercantile part something for the defence of their property. The question was, whether, having put their hand to the plough, they should now look back? Let it not be said that they talk of their power, for when it comes to be put into effect, it vanishes, because it cannot be done without expense.

The gentleman from New York had said, that when they had injuries done them, they were not to retaliate, but submit; if so, not only their coat, but their cloak, would be taken from them. He

would have gentlemen recollect, that their farms were equally insecure with the property of merchants, and that after having taken ships enough, there was nothing to prevent their continuing their depredations on shore.

Mr. WILLIAMS explained. He did not wish, as the gentleman from Maryland had suggested, to excite any jealousy between the commercial and agricultural interests. He wished to encourage commerce as far as the true interest of their country would admit, but he thought agriculture required their greatest attention. The gentleman last up had said, that the whole expense of building the frigates ought not to be looked at, as it would only be the interest which they should have to pay, but he wished to ask that gentleman whether, on some future day, they should not have to pay the principal? He thought this a strange argument.

Mr. AMES did not wish to go into an argument at length in favor of keeping up a Naval force; nor did he suppose his conceptions on the subject were very material. The gentleman from Virginia [Mr. MADISON] objected to the number of frigates proposed to be built. He agreed with him, that if it were necessary to keep up a Navy able to cope with European Powers, it would be better to relinquish their commerce altogether.

It was true it might, on the score of expense, be inconvenient to keep on foot the whole number of frigates, though he had objections to reducing the number of them. It had been said, that if the six frigates were completed, they would have no effect in repelling the force of European nations. There would, in his opinion, be two advantages derived from having some force. There was something in raising an opinion of force; it would have some effect on the imagination of Foreign Powers. He owned he looked forward to the time, when, if good Government continued, it would be in the power of this nation to cope with any European nation, if it was their duty to do so. If they armed at all, though but a small force, it could not fail to produce respect to the nation. It is a display of some strength, and of a spirit that could command more.

Another idea with respect to any dispute with England: Every one supposes that with 500 ships of war she would be an overmatch for any vessels we could build; but if we have six frigates, they would be obliged to come out in fleets instead of single cruisers; and thus our frigates would be able, in a considerable measure, to protect our coasts. The opinion of their force would serve to protect our trade in peace, and their actual force would be of some use in time of war. With respect to the Barbary Powers, the idea of force will have some effect; for they will not be influenced by justice, and their cupidity will be whetted or repressed by a consideration of our strength or weakness. He thought it necessary to act on the fears of those Powers. Two or three frigates would not be a match for Algiers; but that was not all, two or three frigates could not always be on the station; some must be ready to relieve others. He asked, therefore, whether less

than enough would not be a waste of money? He thought, to have their trade half protected might be worse than no protection at all. This was his conception; he might be told that he was in error; but as the observation appeared of some weight with him, he made it.

But in his view, there was an object far more interesting than mere counting-house calculation. Admitting our Navy might cost more than the insurance against capture, he would ask whether they listened to the sighs of their citizens in Algiers? If they had thought of these, they would say that the protection of their citizens was worth more than it cost. The frigates proposed to be built would produce a sense of security in their seamen, and would have a very good effect; but if they had not force enough to give security, and the sense of it, it would amount to nothing.

He considered the possession of force as the only way of gaining respect, and he doubted whether the triumph of the Roman arms by the Roman legions was not as much owing to every citizen believing himself equal to a King, as to their strength. And he wished an American citizen should cherish the rights of citizenship more than cash. This national protection will cherish the sense of brotherhood; he believed this was necessary in a country where time had done so little to knit together the ligaments of our Union, which so many repulsive passions were now in full activity to sever.

Mr. GALLATIN said, before the question was taken, however trifling a consideration the expense of building the frigates might be, he should wish to know from what sources they were to have the money. The gentleman from South Carolina, well acquainted with our finances, had not deigned to say from what revenue they might raise the sum wanted; his colleague from Pennsylvania had proposed to borrow it. He rose principally to give an estimate of the expense; but before he did this, he would remark, with respect to appropriations, that although it was said that the money appropriated for the frigates was not all expended, and that therefore a part of the sum now wanted would be got from this source, yet it would be well to recollect, that when an appropriation was made, no money was thereby put into the Treasury, and therefore that an unexpended balance of appropriation was not a sum of money existing in the Treasury which could be applied to any purpose. He was opposed to the principle of building the six frigates, because it created a large additional expense without any means being provided to defray it. It appeared by the official statements before them, that the six frigates would cost 1,142,160 dollars, and that 458,971 dollars thereof had already been expended; from whence it resulted, that a further sum of more than 680,000 dollars was wanted, and must be provided for in order to complete that armament. Although \$230,000 were appropriated in part of this last sum (being the unexpended balance of the appropriation of last year) no funds were provided to discharge any part whatever of the expense. In all the official state-

ments of the Secretary of the Treasury, in the report of the Committee of Ways and Means, which was grounded on these statements, the total amount of expenditure contemplated for the current year was exclusive of that sum; if that sum were added, it would increase the deficiency of this year, estimated at 1,200,000 dollars, and make it near 1,900,000 dollars. But exclusively of the expense of building the frigates, the permanent expense of supporting a Navy must be considered; by the official statement the expense of pay of officers, of seamen, &c., and subsistence of two frigates (one of forty-four, and one of thirty-six) for six months, was estimated at more than 70,000 dollars; and therefore the expense of pay and subsistence of six frigates (four of forty-four, and two of thirty-six) for one year, amounts to at least 425,000 dollars. If to this are added the expense of keeping the ships in repair, and a variety of other incidental charges, it will be found that the estimate of the gentleman from Virginia [Mr. NICHOLAS] viz.: that the permanent yearly expenditure of the six frigates would be half a million of dollars, was too low. Yet the only expense contemplated by the Committee of Ways and Means on that head, had been 74,000 dollars a year; and, therefore, provision must be made to increase the revenue, by a sum of 426,000 dollars a year in addition to the sum of 1,200,000 dollars a year wanted from the year 1801 to pay the annuity on deferred stock; in addition to the sum of 680,000 dollars immediately wanted to build the vessels; in addition to any provision that may be wanted to pay any part of the principal of our Foreign Debt, Domestic Loans, or anticipations.

Again, when he considered the advantages to be derived from this armament, he could see no good ground for going into this enormous expense. He was sensible that an opinion of our strength would operate to a certain degree on other nations; but he thought a real addition of strength would go farther in defending them than mere opinion. If the sums to be expended to build and maintain the frigates were applied to paying a part of their National Debt, the payment would make them more respectable in the eyes of foreign nations than all the frigates they could build.

He could not discover how six frigates could be considered as the foundation of a Navy. To spend money unnecessarily at present, would diminish their future resources, and instead of enabling them, would perhaps render it more difficult for them to build a Navy some years hence. If, instead of building frigates, they were to buy up timber for future use, it might be called, with some propriety, the foundation of a Navy. But their building a few weak vessels ill deserved that name. From these considerations, he should vote against building the six frigates, although he might agree to the report of the committee, who had recommended to complete two of the ships.

Mr. GOODHUE said, as they had made peace with Algiers, and materials and labor were at a very high price, he should vote for finishing three frigates only at present, and for laying up the re-

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mainder of the materials for future service. Ships building at the present period were almost double the price that was paid in ordinary times.

Mr. GILES thought the present merely a money concern. Six frigates could not gain any great respect for the nation. They had no immediate occasion for frigates, and he thought this the worst possible time to build them. He believed gentlemen were much mistaken with respect to the effect they would produce. He spoke of the peace with Algiers, and asked, if building the frigates had tended to lessen the price of that peace? Was not the sum beyond any calculation that had been thought of? Gentlemen frequently supposed that voting a thing to be done, was to cause it to be done. An appropriation was one thing, and money another. When they spoke of consequences, they overrated them. If they would go into the building of a Navy, they should fix on a proper time. With respect to versatility, it could not be charged on them, for they were endeavoring to act according to law. For his own part, he was against the law altogether. He was of opinion, with the gentleman from Pennsylvania, that if they were to pay off the National Debt, it would gain them more respect than their frigates.

Mr. W. SMITH said the gentleman from Pennsylvania [Mr. GALLATIN] had asked where the money was to come from to complete the frigates. He believed they were not reduced to so contemptible a situation as not to be able to raise money necessary for completing their frigates. He thought it would be proper to have a Loan for the business. A Loan might be had on the new revenue. He hoped there would also be a saving in the Army Establishment. Indeed, no doubt could be entertained with respect to funds, if the measure were deemed necessary.

The act passed for the purpose, said they would build six frigates. A clause was indeed added, when the bill was about to pass, directing them to be stopped in case of peace with the Algerines; but it was never seriously thought that the building of any of them would be discontinued. It would appear so degrading to the country, that he trusted it would never take place. It had been ably shown, that those frigates, though a small force, would add respectability to their character abroad. Gentlemen said, how could a few small vessels be considered as the commencement of a Navy. He said the frigates which were building were not small, but large vessels, equal to ships-of-the-line, and he trusted they would go on from time to time to increase the number.

With respect to the large sum paid for peace to the Algerines, being a proof that this intended armament had had no effect upon that power, he believed there was another cause which advanced the price of that peace; it was owing to obstacles which came from a quarter whence they had no right to expect them. For his part, he had heard no argument which convinced him it was not proper to finish the whole of the frigates.

The question was now put and negatived.

Mr. GALLATIN then moved to strike out three

and insert two; that is, to have only two frigates built. The motion was negatived, 44 against 48.

A motion was proposed and carried, to strike out the clause enabling the PRESIDENT to finish the remainder of the three frigates when the price of materials and labor should be lowered, or the public good should require it, and to insert one in its stead, directing the PRESIDENT to sell such of the perishable materials as remained, and to lay up in store the rest for a future use. Agreed to.

The Committee rose, and the House proceeded after clearing the galleries, to a consideration of a confidential communication from the PRESIDENT, received on Friday last.

FRIDAY, April 8.

Mr. HARPER said, he wished to replace the resolution which he laid upon the table some days ago, relative to carrying the Treaties lately concluded into effect, with one somewhat differently worded, which was accordingly read, and laid upon the table.

Mr. HARPER said, he thought it was necessary that some notice should be given upon all important subjects before they were taken up; he therefore informed the House, that on Monday, he should move to bring forward the subject of appropriating the means of carrying into effect the late Treaties.

NAVAL ARMAMENT.

The House again resolved itself into a Committee of the Whole on the act supplementary to an act, entitled "An act to provide a Naval Armament," and after a few observations, the Committee rose and reported the bill. The House took up the amendments.

Mr. W. SMITH again moved to strike out the first clause, in order to introduce one to have all the frigates finished instead of three; but which, after a considerable debate was negatived, by the yeas and nays being taken upon it, as follow:

YEAS.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Bargo, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Joshua Coit, Isaac Coles, Jeremiah Crabb, Samuel Earle, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, William B. Grove, Wade Hampton, Carter B. Harrison, Robert Goodloe Harper, John Hathorn, Jonathan N. Havens, James Holland, George Jackson, Matthew Locke, Samuel Lyman, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Anthony New, John Nicholas, John Page, Josiah Parker, John Patton, Francis Preston, John Reed, Robert Rutherford, John S. Sherburne, Jeremiah Smith, Israel Smith, Absalom Tatom, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, John Williams, and Richard Winn.

NAYS.—Benjamin Bourne, Theophilus Bradbury, Daniel Buck, William Cooper, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glew, Benjamin Goodhue, Roger Griswold, George Hancock, Thomas Hartley, John Heath, Daniel Heister, Thomas Henderson, James Hillhouse,

William Hindman, John Wilkes Kittera, Edward Livingston, Francis Malbone, Frederick A. Muhlenberg, William Vans Murray, Alexander D. Orr, Theodore Sedgwick, Nathaniel Smith, William Smith, Thomas Sprigg, John Swanwick, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, John E. Van Allen, and Peleg Wadsworth.

Mr. W. SMITH said, in case of a war, much of their national strength would depend on privateers. He believed merchant ships, as now constructed, were very ill suited for war. If Government could encourage merchants to build vessels in such a manner as to answer the purposes of merchandise, and at the same time to be easily converted into vessels of war, he was of opinion it would be of great service to the country. It was, he confessed, a new idea in the House, but as there were gentlemen in the House who were better acquainted with the nature of ship building than he pretended to be, he should be glad to hear their opinion on the subject, and for that purpose, he proposed a clause similar to the following, to be added to the bill:

"Be it enacted, &c., That the sum of — per ton shall be allowed to every owner of a ship, being a citizen of the United States, which shall be so constructed (to be determined by the Collector of the port from whence the said vessel sails) as to be readily convertible into a vessel of war; provided the owner give bond, with sufficient security, in case said vessel be disposed of to a foreign Power, or citizen of a foreign country, to refund the said bounty."

Mr. GOODHUE said this was a new idea. He said vessels for war and vessels for commerce were built upon very different constructions, and he thought it almost impossible to combine the two together. Merchant ships had an upper deck, vessels of war an open deck; and he believed it would almost take as much time to convert a merchant ship into a vessel of war, as to build a new ship. Besides, Collectors being unacquainted with the business, would be liable to be imposed upon. Not one merchant vessel in a thousand sailed sufficiently fast for vessels of war.

Mr. PARKER thought this subject might be discussed on a future occasion, if the gentleman would propose the measure in the form of a resolution; it would encourage ship building, as a vessel so constructed would not carry more than half the goods which merchant vessels carry. To attempt to introduce the clause into this bill would impede its progress. He hoped, therefore, it would be withdrawn for the present, and introduced hereafter in the shape he had suggested.

Mr. SWANWICK said, gentlemen called the present proposition a new one; but it was by no means new. In Great Britain this principle had long since been adopted. She had given a bounty on vessels, in some degree similar to the one now proposed, on their becoming armed vessels. He did not think the plan by any means impracticable. In the last war many of their merchant vessels had been converted into privateers. The West India trade was carried on in swift sailing vessels; and Virginia pilot-boats had frequently

been sold to the belligerent Powers for vessels of war, on account of their being remarkably swift sailers. He thought it would be good policy in Government to offer a bounty, as a motive to merchants to build their vessels so as to answer the double purpose which was now in view. No one can suppose that they shall always be in profound peace. The first danger to be apprehended, in case of hostilities, was along shore. The cities of immense value, and large agricultural houses, lay prostrate to a foreign country—for the House had not hinted at any water defence for them. The only alternative talked of, were privateers or letters of marque.

The British vessels to India and the Mediterranean were opposed to danger from piratical corsairs—the carrying of guns was found expensive, Government therefore formerly gave a bounty on tonnage to all vessels who carried a certain number of guns. Many a man was saved from slavery by this measure, who otherwise might have been taken by a small row-boat. The more, he said, he investigated commercial affairs, the more he saw the riches of that source; and he was not sure, if duly examined, whether navigation would not be found as productive a source of wealth to the country almost as agriculture itself. He then took a further view of commerce and agriculture and insisted that their interests must rise or fall together.

He hoped they would not reject the proposition before them, as it might have an excellent tendency to increase their strength. It was a good way to deliberate upon a thing, and not cast it away at once. They received a great revenue from tonnage, and if they were to return part of it again for this purpose, he thought it would be a good plan; and unless gentlemen could point out some better way in which the nation could be secured, he should give it his support, as it would be purchasing security at a low rate. It was also an excellent provision that the bounty received should be returned, in case a vessel was sold to a foreign Power. At present, he said, their timber and other raw materials were carried off to support and armament foreign navies, and no proposal was offered to prevent their being carried away, and ourselves suffering hereafter for the want of them. He could not say whether the present proposition would be best connected with the bill; but if it was not, he hoped it would be put into such a form as to come under discussion on a future day.

Mr. MADISON thought there were many strong objections to the present measure. In the first place, he conceived, with the gentleman from Massachusetts, that it would not be easy to construct vessels so as to make them easily convertible into vessels of war, without sacrificing the economy of navigation. A vessel built in such a manner, at the same expense, would not carry the same cargo. The amendment itself seemed to contemplate this, by offering a bounty. A question would arise, whether the bounty given would be equal to the loss with respect to the construction to the merchant, or whether it would not be a greater expense to Government than the advantage which

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could be derived from the measure would warrant? It would be going into a plan in time of peace that would constantly keep war in view. He objected to the immense discretion proposed to be vested in custom-house officers; it would be a great discretion to be placed any where. A gentleman had mentioned Virginia pilot boats as best fitted for war and trade. If so, he said they would recommend themselves. All that remained was to make the advantage evident. The subject was new, and it could hardly be supposed that such a measure could be decided upon immediately. It would be best to lay the proposal on the table.

Mr. HILLHOUSE hoped the clause proposed would be withdrawn. Its extent could not at present be seen, and it was improper to be brought forward in the last stage of a bill. Were all their ships to be turned into privateers? Much information was necessary to be had before such a measure was adopted. It ought to have been brought forward more early in the session, that proper inquiries might be made on the subject; at present they had important business pressing upon them, which ought not to give way to any new matter.

Mr. WILLIAMS said the proposition made by the gentleman from South Carolina deserved consideration. It was founded upon a doctrine similar to that which he himself had advanced, and he thought the best plan which could be entered into by the United States, by way of defence; but to build vessels of war, and to go into this measure also, was unnecessary. If they were to agree to this proposition, and not to that for building frigates, it would have the best effect. All their vessels would not be built in this way, as the gentleman last up had supposed; because every one would be left to adopt the plan or not. He thought this plan far preferable to building ships of war; there were no officers, no sailors, no materials to provide. It would also encourage ship-building. He did not consider it necessary to go into the building of a navy for this country. Fortifications, floating batteries, and vessels of this kind, would be a sufficient defence for them.

Mr. HARPER thought it improper to go into this question at present. Many objections might be urged against it, and it could not receive a proper decision without more discussion than they could now give it. It ought not, therefore, to be entered upon; for though the practice was known in Great Britain, it was not known here. It should be brought forward as a separate proposition, and not make part of a bill about to be passed. He did not wish the proposition to be rejected; but that his colleague would withdraw it, and lay it on the table in the form of a resolution.

Mr. KITTEK said, that an Irishman proposed to make all cart-horses into running horses; and gentlemen wished to convert merchants ships into ships of war. He thought there were many objections to the proposition, and that it could not be carried into effect.

Mr. MURRAY would only make a single remark; The presumed novelty of the principle contended for, was one of the objections to it. It was not a new principle even in that House. Those who

were present when the first bill for the building of six frigates was under consideration, will remember that he suggested this idea, which he read to the House, in a clause almost copied from an English statute, he believed in Charles the Second's time; he remembered that this idea, though not adopted, was often alluded to in debate by those who opposed the frigates, as a valuable substitute, and a gentleman from Virginia argued ingeniously that it was a mode of uniting the habits and passions of individual enterprises with the system of public defence and the cheapest mode. Now, according to this bill, we lose three of the frigates, and this plan would come in as a valuable substitute for the frigates which are discontinued.

Mr. W. SMITH said, he made the proposition with diffidence, because the subject was important and novel: every gentleman, however, who had spoken on the subject seemed to think it presented some favorable aspects. But it was objected to as being unseasonably brought forward. He himself did not see the impropriety. They were now considering the subject of a Naval Armament. His provision contemplated vessels of war, without the expence of building them, by giving a bounty to encourage merchants to adopt a particular construction in building their vessels. This was not certainly unconnected with the present subject. Nor was this the last reading of the bill; it would have also to undergo a discussion in the Senate. He, therefore, thought some remarks which had been made upon his motion unfounded. Gentlemen were also mistaken in respect to the difficulty of building vessels to answer the purposes of trade and war. It was a fact that the English Government had converted during the last year some of their East India ships into 64-gun ships, and they were said to be amongst their best vessels. Their East India vessels generally carried, it was true, guns, though they were built for trade. Probably vessels employed in the Mediterranean trade should be so constructed. Vessels employed in the West Indies, they had heard, were very fit for the purpose, and the English East India ships at present carry guns. So that there are three descriptions which might easily be converted into vessels of war. Gentlemen had spoken as if it were intended that all their vessels should be so constructed. It was calculated that they had 600,000 tons of shipping sailing from their ports, 400,000 of which were square-rigged vessels. It was supposed that the number of square-rigged vessels was about 2500. If one-fifth only of these were constructed in the way he proposed, would it not be of great advantage? But if their commerce continued to increase, in the way it had done of late, they might have 1000 vessels of this description.

An objection had been made with respect to the modification of his clause. It was objected that so much power should be placed in Collectors; but it must be supposed that before a Collector returned any vessel as entitled to the bounty, he would employ proper persons to examine the construction of such vessel. Individuals who built vessels could not be injured, because it would be a mat-

ter of choice, and if the bounty was not supposed equal to any loss which might be sustained by such vessels not being able to carry so much cargo, they would not fall in with the proposal. The gentleman from Virginia [Mr. MADISON] said it was bad policy to increase their expenses in time of peace to prepare for war. On the contrary, he believed it a wise policy. And if the present proposal should cost the nation 20, 30, or 50,000 dollars a year, would it not be a great advantage to have 500 or 600 vessels of this sort ready to cripple the trade of an enemy in case of war? Would not the knowledge of this capacity in them, be a constant check upon nations disposed to be their enemies? He believed it would. But as gentlemen seemed to wish that the consideration of the proposition should be postponed for the present, he should withdraw it, and bring it forward on a future day.

Mr. GALLATIN again moved to strike out three frigates, for the purpose of inserting two; which was negatived—yeas 25, nays 57, as follows:

YEAS.—Messrs. Theodorus Bailey, Abraham Baldwin, Nathan Bryan, Dempsey Burges, Gabriel Christie, John Clopton, Joshua Coit, Isaac Coles, Jeremiah Crabb, Albert Gallatin, William B. Giles, Roger Griswold, Wade Hampton, Carter B. Harrison, Jonathan N. Havens, James Holland, George Jackson, Matthew Locke, William Lyman, Samuel Maclay, Andrew Moore, Anthony New, John Nicholas, Israel Smith, and John Williams.

NAYS.—Fisher Ames, David Bard, Lemuel Benton, Thomas Blount, Benjamin Bourne, Theophilus Bradbury, Richard Brent, Daniel Buck, Thomas Claiborne, William Cooper, George Dent, Samuel Earle, Abiel Foster, Dwight Foster, Jesse Franklin, Ezekiel Gilbert, James Gillespie, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Andrew Gregg, George Hancock, Robert Goodloe Harper, Thomas Hartley, John Hathorn, John Heath, Daniel Hoister, Thomas Henderson, James Hillhouse, William Hindman, John Wilkes Kittera, Edward Livingston, Samuel Lyman, Nathaniel Macon, Francis Malbone, Frederick A. Muhlenberg, William Vans Murray, Alexander D. Orr, John Page, Josiah Parker, John Patton, John Reed, Robert Rutherford, Theodore Sedgwick, John S. Sherburne, Jeremiah Smith, Nathaniel Smith, William Smith, John Swanwick, Zephaniah Swift, Absalom Tatum, Mark Thompson, John E. Van Allen, Philip Van Cortlandt, Joseph B. Varnum, and Peleg Wadsworth.

The other amendment, to add to the bill a new section, was then read, as follows:

"And be it further enacted, That the President of the United States be, and he is hereby, authorized to cause to be sold, such part of the perishable materials as may not be wanted for completing the three frigates, and to cause the surplus of the other materials to be safely kept for the future use of the United States."

The amendment was agreed to, and the bill ordered to a third reading.

STATE GOVERNMENT FOR TENNESSEE

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
of the House of Representatives:*

By an act of Congress passed on the 26th of May, 1790, it was declared that the inhabitants of the Territory of the United States South of the river Ohio should enjoy all the privileges, benefits, and advantages, set forth in the ordinance of Congress for the government of the Territory of the United States Northwest of the river Ohio; and that the government of said Territory South of the Ohio should be similar to that which was then exercised in the Territory Northwest of the Ohio; except so far as was otherwise provided in the conditions expressed in an act of Congress passed the 2d of April, 1790, entitled "An act to accept a cession of the claims of the State of North Carolina to a certain district of Western Territory."

Among the privileges, benefits, and advantages, thus secured to the inhabitants of the Territory South of the river Ohio, appear to be the right of forming a permanent Constitution and State Government, and of admission, as a State, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever, when it should have therein sixty thousand free inhabitants: Provided the Constitution and Government so to be formed should be Republican, and in conformity to the principles contained in the articles of the said ordinance.

As proofs of the several requisites to entitle the Territory South of the river Ohio to be admitted, as a State, into the Union, Governor Blount has transmitted a return of the enumeration of its inhabitants, and a printed copy of the Constitution and form of Government on which they have agreed; which, with his letters accompanying the same, are herewith laid before Congress.

G. WASHINGTON.

UNITED STATES, April 8, 1796.

The above communication was read, and referred to a select committee of five members.

Mr. PARKER, of the Committee of Conference, appointed to confer with the Senate on their disagreement respecting certain amendments proposed and insisted upon by the Senate, and disagreed to by the House of Representatives, to the bill for establishing trading-houses with the Indian tribes, reported that a conference had been held, and the Senate had consented to recede from their amendments. They proposed a farther amendment to the bill, that instead of six thousand dollars being allowed to the agent and clerks, eight thousand dollars should be allowed. The report and bill from the Senate were laid on the table.

The House took up the resolution laid upon the table some days ago by Mr. SEDGWICK, for establishing a mode of taking evidence in contested elections, and referred it to the Committee of Elections to make a report thereon.

The House went into a Committee of the Whole on the bill for further providing for the Public Credit and for the reduction of the Public Debt; and, after having gone through it, the House took it up, and ordered it to be engrossed for a third reading to-morrow.

The House then went into a Committee of the Whole, on the bill for regulating trade and intercourse with the Indian tribes, and after some debate on the clause which directs the forfeiture of

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lands in certain cases, the Committee rose, and asked leave to sit again.

SATURDAY, April 9.

The bill for making further provision for Public Credit, and for the reduction of the Public Debt, was read a third time, and passed.

A bill declaring the assent of Congress to an act to be passed by the State of Massachusetts, for laying a certain tonnage upon vessels navigating the Kennebunk river, to defray the expense of erecting a pier therein was read twice, and referred to a Committee of the Whole on Monday week.

NAVAL ARMAMENT.

The bill supplementary to an act for providing a Naval Armament, was read a third time, and passed.

Mr. HOLLAND opposed the passing of the bill in a speech of some length, in which he very forcibly urged the impolicy of the measure. He insisted that two or three frigates would only serve to provoke attack without being able to make resistance, and instead of gaining respect would excite contempt from foreigners. He objected to the measure also on account of the very great expense it would be attended with at a time, he said, when they were much straitened for money.

On motion of Mr. WILLIAMS, the yeas and nays were taken upon the passing of the bill, and resulted—yeas 62, nays 23, as follows:

YEAS.—Abraham Baldwin, David Bard, Lemuel Benton, Theophilus Bradbury, Richard Brent, Daniel Buck, Thomas Claiborne, William Cooper, Jeremiah Orabb, George Dent, Samuel Earle, Abiel Foster, Dwight Foster, Jesse Franklin, Ezekiel Gilbert, James Gillespie, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Andrew Gregg, Roger Griswold, George Hancock, Carter B. Harrison, Robert Goodloe Harper, Thomas Hartley, John Heath, Daniel Heister, Thomas Henderson, James Hillhouse, William Hindman, John Wilkes Kittera, Edward Livingston, Matthew Locke, Samuel Lyman, Nathaniel Macon, James Madison, Francis Malbone, John Milledge, Frederick A. Muhlenberg, William Vans Murray, John Nicholas, John Page, Josiah Parker, John Patton, John Reid, Theodore Sedgwick, John S. Sherburne, Jeremiah Smith, Nathaniel Smith, William Smith, Thomas Sprigg, John Swanwick, Zephaniah Swift, Absalom Tatom, George Thatcher, Richard Thomas, Mark Thompson, John E. Van Allen, Philip Van Cortlandt, Joseph B. Varnum, and Peleg Wadsworth.

NAYS.—Theodorus Bailey, Thomas Blount, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, John Clopton, Joshua Cott, Isaac Coles, Albert Gallatin, William B. Giles, Wade Hampton, Jonathan N. Havens, James Holland, George Jackson, William Lyman, Samuel Maclay, Anthony New, Francis Preston, Robert Rutherford, Israel Smith, Abraham Venable, and John Williams.

EXPORTATION OF BREADSTUFFS.

Mr. CHRISTIE said there was a great scarcity of Indian corn in the country, and when he con-

sidered that it would yet be nine months before the return of a new crop, he believed it would be necessary to take steps to prevent, for a limited time, its exportation, as many poor persons depended upon it almost wholly for food. He therefore proposed the following resolution to the consideration of the House:

“Resolved, That a committee be appointed to inquire into the expediency of preventing the exportation from the United States of Indian corn and corn meal for ——— months.”

Ordered to lie on the table.

INTERCOURSE WITH INDIANS.

The House having resolved itself into a Committee of the Whole on the bill for regulating intercourse with the Indian tribes, and the motion for striking out the clause which enacts a forfeiture of all right to the land ceded to the Indians by the late Treaty, in case any person entitled to any right in it shall go upon it for the purpose of marking it out, &c., being under consideration,

Mr. HOLLAND said, he would make some observations on what had been advanced in opposition to the amendment, and afterwards attempt to show to the Committee why the amendment should prevail. By way of objection, it had been said by a gentleman from Maryland, [Mr. CRABE] that this question was agitated fully in the committee that prepared the bill, and that they had decided in favor of the clause. Mr. H. did not know why the discretion of the committee was mentioned, unless it was to prevent investigation; that he thought it his duty not implicitly to submit to their opinion, nor would he be governed by it on this occasion, nor in any other case, but would investigate the principles contained in the bill, and would then act according to what he conceived to be his duty. The same gentleman, in reply to his colleague from North Carolina, asked, what could induce persons to go into the Indian country and mark lands? In addition to what had been said by his colleague, he observed that he knew persons who went into the Indian country to make discoveries, having no other claim, and that brokers of this city were then in possession of those discoveries proposing for sale.

A gentleman from Connecticut said, the existing law was equal to this bill, if this clause was struck out. If that gentleman had attended to the other provisions contained in the bill, he might have saved himself the assertion; but as it was a naked assertion, he would not compare the bill with the former law, the Committee being acquainted with both. But the same gentleman [Mr. HILLHOUSE] had asserted that the claimants had only a pre-emptive right, and that the Indians had the fee simple of the lands. This assertion, Mr. H. said, he was authorized to deny. It had not been admitted, neither by His Majesty, antecedent to this Government, nor by this Government, in theory or in practice. By the theory of the British law, all titles to the soil were originally in the King; he was lord paramount, and all lands not immediately disposed of by the Crown, with-

in his extensive dominions, were vested in him. The savages of these Provinces, when under the British Government, were considered a conquered people, and tenants at will. And hence it was that they were unable to convey, unless previously admitted by the Crown, and then their title was their right of occupancy, and not the dignity of a fee simple, the King's grant being necessary to vest the fee.

In this situation were the tenure of the Indians under His Majesty, so far as his Provinces had circumscribed them within the respective charters of this country. At the Treaty of Peace in 1783, it was acknowledged that the respective States were the free sovereigns of all the lands contained within their Provincial charters, which placed them in the precise situation with respect to the fee that His Majesty had previously done in the fee simple; therefore, all the lands contained within the charter of North Carolina belonged to Government, or to the people of that State; the Indians, therefore, were tenants at will, and not tenants in possession of a fee simple estate. To prove this, also, they have ever been incapable of conveying their estate, not even for life, without leave of Government. Inheritance and alienation were incident to a fee. All persons can convey the title they possess, but they possess no title more than in villanage.

The State of North Carolina, therefore, viewing themselves as lords of the soil, opened a land office to dispose of the unappropriated lands to her citizens, previously setting apart an abundant quantity to those Indians for hunting ground, upon which they expressly prohibited any entries to be made, and sold the remainder to her citizens, to discharge the obligations she was under to them, as well as the Continent in general, for their personal services in procuring the independence of that State against the force of those savages, in conjunction with Tories and Britons: and how shall it be forfeited, in case they attempt to mark those lines which were wearing out by time? Shall those deserving citizens suffer a punishment due only by our Constitution to acts of treason?

But, in order to make this go down, it is smoothed over, and said, those citizens have only a pre-emptive title; and it is asked, if they are not volunteers, why did they go over? This might be asked as an apology for all punishments, however enormous they may be.

It was said by *Montesquieu*, and many writers, that sanguinary laws were of the worst kind; that they are ever badly executed. If ever a time should happen that they were necessary, it would now be improper to adopt the measure, when they would operate on the best citizens, and on those that had long been deprived of their right by the measures and operations of Government. He had before said, those citizens had made a fair contract with the State of North Carolina, and a full payment for those lands. He would now beg leave to attend to the contract made by the State of North Carolina with the General Government, in behalf of her citizens. Here Mr. H. read that

part of the deed executed by the Senators of that State to the General Government, in which it was stipulated that no obstruction should be made to the obtaining the patents, pursuant to the entries lawfully made; and that the Government of the State, for the time being, should be enabled to execute a grant to the said lands, in the same manner as though that cession had not been made. He then read the act of acceptance of the deed, from which he said it was plain, that the faith of the General Government was explicitly pledged to enable these citizens to survey those lands, and to authorize the Governor to execute the grants. This being the case, notwithstanding the General Government, by Treaty, gave those lands to the Indians, in express contradiction to their plain and original contract, it must follow that the General Government is bound to extinguish this Indian claim, and put the injured citizens in possession of their realized property, which they had so long been kept out of, and so justly bought.

The Government had power to treat her citizens in this manner, but if they do, what will be the consequence? Will not their minds be irritated? Will they have reason to love that Government which pays no regard to their sacred rights? Fourteen years had elapsed, and they had not yet been required for the services they had done their country, and their realized property secured to those Indians that had been the worst of enemies. Under these reflections, what might they not do, more especially when we annex a forfeiture of this realized property?

The gentleman from Connecticut said, that treason in all countries had been undefined. In this he was not correct: but, he said, it is right so to get hold of a large property; he hoped he did not mean to apply this to the inattention of their penal laws. In all countries, treason had been thought the highest crime a citizen could commit; and, in this country, our Constitution prohibits a forfeiture of real property longer than life, whilst the forfeiture in this bill is unqualified. Laws working forfeiture, according to the spirit of our Government, ought to be avoided. Many of the States have adopted lenient penal codes, and have found the salutary effects. He hoped this would not have admittance in our penal code.

Mr. NICHOLAS said, there were many reasons for striking out this clause. If the penalty was inflicted, it was, perhaps, irrevocable. There might be circumstances in which the penalty might be inflicted, which would call for a mitigation of it: but there would be no power of mitigation under this act. It seemed as if these people were considerable sufferers, and that they had a claim, either upon the State of Carolina, or upon the United States. Would it not, then, be hard upon them, whilst their claim was scarcely heard, to make so severe a penalty against them? It would irritate them very highly, and would unite them against the Government. If they had behaved improperly, they had had strong incentives to it, and so far from its being justifiable to increase their punishment, he thought they ought to be treated with delicacy. If the property was

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theirs, the Treaty could not do their right away. As long as it was an unsettled question, whether a Treaty could dispose of private property, and whether some compensation ought not to be made in such cases, the penalty was extremely disproportionate.

Mr. COOPER observed, that the idea advanced by the gentleman from North Carolina, that Indian nations could not hold the fee of the countries they possess, was new; but the idea that our citizens can acquire the fee of their lands without their consent, was not only new, but contrary to natural justice. The individuals who hold the pre-emption right of those lands, took them subject to the Indian claim, and they must wait until it is convenient for Congress to extinguish their title by Treaty. Neither the law now proposed, the Treaty of Holston, nor the act of North Carolina, put those individuals in a worse situation than they were when they first obtained their warrants. They took them, subject to this incumbrance, and if they cannot be restrained by law, they must be restrained by force; for the peace of the United States ought not to be broken by a few daring individuals. This bill was to preserve peace on the frontiers; and if men, who hold warrants within their lines as settled by Treaty, will, in violation of law, take possession of their land, they ought and must forfeit their claims.

Great part of the country of Ontario was now selling, he said, subject to the Indian claim; but should those purchasers, or holders of the pre-emption right, attempt to take possession of those lands before a Treaty is made with the natives, and thereby subject the frontiers to the ravages of an Indian war, a forfeit of such claim, said Mr. C., is too small a punishment for such offenders; he, therefore, hoped the clause would not be struck out.

Mr. MILLEDGE was in favor of striking out the clause. A forfeiture, like the one proposed, was contrary, he said, to the Constitution of the United States, and he hoped it would be abandoned.

Mr. CRABB spoke in favor of the clause. It would prevent that kind of abuse which was apt to kindle war on the frontier, by a forfeiture of their title to the land. If they had any claim upon the United States, he would have them satisfied. Whenever their citizens went over the boundary lines, war was the consequence. These citizens, he said, had nothing more than an unextinguished pre-emptive right, and he believed all they were bound to do was, to guaranty to them their right whenever the Indians quitted the land. Gentlemen spoke, he said, as if Government were bound to go and drive the Indians back by force. It was said that the forfeiture contemplated by the present bill was contrary to the Constitution. He was confident it was not. If the clause was struck out, the bill would be of no use; it would stand as before. And letters had been received from the frontiers, that except further means be taken to preserve the peace, it would not be preserved.

Mr. HILLHOUSE said, that the forfeiture proposed would, in many instances, be a less forfeiture than personal property. By our revenue laws, an East India ship and cargo, of \$100,000 value, was liable to forfeiture for a violation of the law. Can any one say that these forfeitures are not greater than that of a pre-emption right to Indian land, which can never operate until the Indians shall relinquish, by some conveyance or cession, their title, which they are at liberty to make or not, as they shall think proper? He believed, that though the Indians were men in uncivilized life, and differed in their customs and habits from ourselves, yet they were justly entitled to the lands which they possessed. Holding out a contrary idea to the Indians, viz.: that they had no right to the lands which they were upon, had caused great alarm among them, and was, in his opinion, one cause of the Indian wars. Indeed, this right and title to the lands had been expressly recognised by the United States in the Treaties they had made with them. The God of Nature had given them the land, and he was sorry to hear any gentleman on that floor call their right to it in question. He would ask, who were the proprietors of this country previous to its being known to civilized nations (as they were called?) Were not those people? And had they not always been in the peaceable enjoyment of it? Who gave us a right to call their title in question, or forcibly to thrust them out? They had, he said, suffered enough from the fraud and violence of those who, since the discovery of America, had been seeking to dispossess them of their lands, and he hoped no one in that House would wish to take from them what little of their inheritance still remained in their possession.

He had, he said, been charged with advocating the cause of the Indians; but he little regarded what was said on that head; his object was not only quiet to the Indians, but security, also, to the peaceable, well-disposed inhabitants on the frontiers, who had families, and were exposed to the resentment and retaliation of the savages: these were not the people who would incur the penalties of this law: it was intended to restrain those daring inhabitants, who declare that, in defiance of Treaties and laws, they will go into the Indian lands, a circumstance which cannot fail to excite the resentment and retaliation of the Indians, which will fall, not upon the offenders, for they will be no more to be found than the wolves, but upon the innocent frontier inhabitants, their wives and children. The charge, Mr. H. said, of being a friend to the Indians, had been made, not only upon him, but a similar charge, Governor Blount says, in his letter published a few weeks since in the newspapers, had been made upon all who advocated measures which tended to promote the true interest of the frontier inhabitants. [He here read the following extract from Governor Blount's letter:]

"You, as well as myself, are sensible that, in the days of the folly of this country, that whoever should attempt to preserve peace with the Indians, was instantly denounced as an Indian friend, and the cry ac-

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cordingly raised against him; but I rejoice, as I wish the future peace and happiness of my fellow-citizens, that those days are in a degree over; I wish I could say quite, then there would be no necessity for me to pen, or you to execute this order. It is, however, not to be denied, that he who preserves peace with Indians thereby serves the Indians; but it is equally true that, by that act, he, in a much greater degree, serves his fellow-citizens. Let any frontier citizen take a retrospective view of an Indian frontier war, half peace and half war, the worst of all wars, and there has been such a war kept up in this country since the Declaration of Independence until the present peace, and must he not in truth declare that the operation has been the more dreadful and distressing to the frontier citizens? True, the Indians have had their sufferings too, but did that alleviate the sufferings of the frontier citizens?"

The Letter from Governor Blount, he said, which accompanied the Message of the PRESIDENT on this subject, informed us that there were a number of people who were determined, any law or Treaty to the contrary notwithstanding, to take possession of the Indian lands, and that nothing but a superior military force would prevent them, a force which must subject the United States to great expense; and shall we be squeamish about forfeiting the pre-emption right of such people to Indian land, which is not a title, but a right only of becoming, in preference to all others, owners of the land, by some future grant or cession to be made by the Indians, who are the present proprietors? If the amendment took place, or the law did not pass in its present form, he should, he said, wholly despair of being able to preserve peace on the frontiers, or preventing Indian wars.

Mr. MADISON said, it was not necessary to investigate the Indian mode of occupancy in opposition to that of civilized society. The natives are understood, by the nations of Europe possessing territories on this Continent, to have a qualified property only in the land. If they had an unqualified title, they could not be prevented from ceding to foreigners their lands lying within the limits of the United States. In that point of view, he thought the doctrine of the gentleman last up particularly objectionable. He thought the clause of the Constitution which had been referred to, was worthy of attention. There could be no doubt, when the Constitution forbid forfeitures in case of treason, the forfeiture of that property was forbidden, of that kind of property incident to the corruption of blood. They must resort to the technical phrase, and they would find the forfeitures meant real estates. The gentleman from Maryland [Mr. CRABD] said, that the prohibition of the forfeiture of property, where life was not forfeited, was just, and not against the Constitution. This remark was of more weight than any other offered, though he did not admit it to be satisfactory. On examining the bill, he believed that both life and property might be forfeited. It was true, there might be a case in which the forfeiture of private property would be greater than real estate; but this was a general rule, and they obtained the benefit of the general rule, and paid the price of the exceptions

for it. This law, he said, was against the spirit of the Constitution; he would not say that it was against the letter, but it was certainly against the spirit of the Constitution; for, if they allowed the forfeiture of real estate in any case besides treason, they might do it for treason also, by calling the crime by another name.

Mr. W. LYMAN said, that the Indians ought certainly to be treated with humanity; but he did not believe they had any real title to land; they did not allow them to sell land. Their property in land had been compared by an able writer to a fisherman's property upon a fishing bank. Their land was the property of the United States, which they were suffered to enjoy, but to which they had no real title.

Mr. SEDGWICK hoped the motion to strike out the clause in question would not prevail, because it was best calculated to preserve peace on the frontiers. It was necessary they should do all in their power for that purpose. It was a subject of considerable importance, and more so from the principle asserted by the gentleman last up. If the vagabonds who were involving them in expense were suffered to proceed in their career, there would be no end of war; but if we were to say to them, no title shall be acquired in this way, we should do that which would have a tendency to prevent war more than any thing else which could be done. But, in order to justify their doctrine, gentlemen say the Indians have no property in the land, or that their property is of a qualified nature, and not such as was possessed by men of civilized society. Two hundred years ago, he said, at the discovery of this country, when cupidity gave a right to possession, and all the cruelties of Spain were exercised upon the innocent inhabitants, which his mind shuddered to think of, this doctrine might have been held. Gentlemen did not surely go upon this plan, because civilized men could improve land better, that they had thence a right to take from the natives, because, as his colleague [Mr. LYMAN] had asserted, they had no more right to it than a fisherman had to the banks of Newfoundland. He had not believed that, at the close of the eighteenth century, and in this place, doctrines of this kind would have been held. Were they to say to the savages in their own country, you have no right to any land? Where was the difference between this and saying to a man who had a million of acres of land, because you do not improve your land as well as it is capable of being improved, we will take it from you? This, he said, would be a principle of plunder which could never find advocates within those walls, hostile to, and destructive of, all security in property. He had an idea that pre-emption right was important, and rested on a national foundation. It was agreed, amongst civilized nations, that that nation which discovered a country should have the only right of treating with the natives, not because savages have no rights, but because two nations, with all the arts of civilization and the cupidity of buccaneers, if they were to go and take possession together of the country, would play off all their savage pas-

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sions together, and the innocent natives would be witnesses to nothing but blood and plunder. Pre-emption right was, therefore, good and reasonable.

Shall we, said Mr. S., wherever we find savages who do not labor, send them to the mines, because we are more civilized than they? Surely not. He believed that wherever the natives of a country had possession, there they had a right, and not because they did not dress like us, were not equally religious, or did not understand the arts of civilized life, they were to be deprived of their possessions, but that their rights or their possessions were as sacred as the rights of civilized life. They had certainly this right, that they could use it as they pleased. This he conceived to be sound doctrine, and he thought it had been everywhere acknowledged; for, so long as it shall be asserted that Indians have no rights, they might expect scenes of blood on their frontier. Indians will never submit to be told they have no rights. With respect to the Constitution, where did gentlemen learn that persons were not to be dispossessed of real estate, but for treason? A man might forfeit it in every State in the Union but one, for debt, when he owes more than he can pay. All penalties of a pecuniary nature were forfeitures; and he would ask if it were more important to lose a single acre of barren land, or a cargo of India goods? This was so extensive a construction of the Constitution, that he knew not, if it were adopted, where it would stop. The only case to which the clause in the Constitution referred, was that of treason, where the passions of party were wrought up to such a degree as to attempt to overturn the Government; but what had this to do with the Indian frontier? Nothing. Because the Constitution says, that a prevalent faction, who say that the minority have committed treason, shall not inflict a forfeiture of the possessions of their adversaries but for life, it did not restrain the discretion of the Legislature in inflicting punishment for other crimes.

He saw no connexion between the two cases. The gentleman from Virginia [Mr. MADISON] says, that if it be not contrary to the letter, it is contrary to the spirit of the Constitution. He could not see this. It was saying no more to the people than, you shall not go upon this territory to provoke war. And it was a fact that no provision would be so effectual to confine the cupidity of adventurers, and thereby preserve peace. He trusted the clause would be preserved in the bill.

Mr. BLOUNT said, the greatest and most numerous offenders against the Indians were not persons who had claims upon the lands, but those who had not, and never could have. Shall they, then, he asked, pass a law which shall inflict the highest punishment on men who, if they had not a claim, had paid for it, whilst those who had no pretensions to a claim, were suffered to escape without punishment at all? It was said, no peace could be had on the frontier if this law were not passed. But he would say, neither this nor any other law they could pass would preserve peace on the frontiers without a military force to carry it into effect. At present, he said, there was a

frontier of 465 miles, with only one company of troops at thirty miles' distance. Other parts had been guarded in a better manner.

When he was on the frontier last Summer, he made it his business to get all the information he could respecting what was best to be done for the peace of that country. A gentleman on the frontier had given him considerable information on the subject, which he had reduced to question and answer, and placed in the hands of the committee. If the Chairman of that committee had attended to those papers, he would not have made some remarks which he had heard. He thought the law before them would have all the good effects without the clause of forfeiture, and therefore he hoped it would be struck out; but to defend and keep order on the frontier it would be necessary to have 500 men stationed there. He wished the Indians to enjoy their lands in peace, whilst they chose to remain upon them, but he did not think it right that one description of citizens should be subject to greater punishment for offences than others.

Mr. GALLATIN said, there was no object more worthy of their attention than the protection of the frontier; but at the same time that they did every thing in their power, they ought not to attempt what was not in their power. They talked of preventing depredation on the territory of the Indians, and thereby prevent retaliations from them. He said there was no idea more groundless than that the mischiefs committed by the Indians upon the frontiers were in general occasioned by previous injuries done to them. Twelve years, he said, had elapsed since the Peace of 1783; ever since that time he had lived on the frontiers of Pennsylvania, and not a single year had passed, whether they were at war or in peace, but some murders or depredations had been committed by the Indians on those frontiers, though there had not been a single instance of an invasion of territory, or of an unprovoked attack on them by the inhabitants of those frontiers. Not a single acre of land had been taken from them but what had been fairly purchased. If they meant to prevent Indian depredations, they must change the nature of the Indians; for as long as there were young Indian warriors they would go to war, either amongst themselves or against the Americans, and there would be murders on the frontiers. It was nevertheless highly their duty to prevent any provocation on the part of our citizens, and he would encourage any feasible plan for the purpose. But what was the object of the clause now moved to be struck out? it was to make a forfeiture of a real estate for a misdemeanor. It was forfeiting by Congress a title to a real estate sanctioned, though not derived from Congress, and derived from an individual State. If once they admitted that by a misdemeanor a citizen might forfeit his real estate, was it not lessening the security which every citizen enjoyed in holding property? The Constitution had said that no property should be forfeited in the case of treason beyond the life of the possessor, yet when this is insisted upon gentlemen say that that clause of the Constitution applies to personal property; but real and not personal property must have been

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contemplated when forfeiture is mentioned, which is not to extend beyond life; for real property will subsist whilst personal being of a perishable and consumable nature is not likely to last longer than the course of a life.

But they were told treason was mentioned in the Constitution in order to guard against the effect of passions and the violence of some political prevailing factions; yet he would wish to know whether the passions of certain gentlemen were not as much inflamed whenever frontiers were mentioned as on any subject whatever? Such a penalty would not have been thought of any where but on the frontier. It was greater than the crime would justify. A forfeiture of estate was contrary to the spirit if not the letter of the Constitution, and opposed to the letter of the act of North Carolina, whereby the territory was ceded to the Union.

The clause under consideration did not punish all citizens in the same way for the same offence. When A did a certain thing, he was to be fined and imprisoned; but when B did it, he must not only be fined and imprisoned but also lose his real estate. Penalties should doubtless apply generally. If the act said, that any man who shall commit a certain offence shall forfeit all his real property, or a certain sum of money, this would be right; but it was not so in the bill before them; the forfeiture was confined to a specific kind of property, possessed by certain individuals, and of course applied to those individuals in a distinct manner. He referred to the act of North Carolina making the cession to Congress, and which was accepted by Congress. That act declares that "all grants made to any person within the limits ceded shall have the same force and effect as if the cession had been made," but the effect of the law before them made a new condition: it said, "you shall lose the land if you set your foot upon it. If the United States had a right to say so, because it was their interest that the lands should not be occupied, and if next year they think it their interest that they should be settled, they would have a right to say, "you shall forfeit the land if you do not immediately go upon it."

But what end, Mr. G. asked, was to be answered by this violation of the principles of justice? Was any good to arise from it? How was it supposed they should drive these people from the land? If Government was so weak as not to prevent them from going upon it, how could they recover the forfeiture and get possession of the land after those people were upon it? Was it supposed that if these persons were not deterred by the present law, which inflicts a penalty of one thousand dollars and imprisonment one year, that they would be deterred by the present law. No such thing. They will say, "if Government are not strong enough to prevent us from going upon the land, they will not be able to drive us from it." And every one knew the difficulties attending the removal of men thus settled. Nothing but an armed force, he believed, could prevent encroachment on the Indian frontier, as the gentleman from North Carolina had justly observed, if the people were

resolved to encroach. But as to any legal restraints the present provisions by law were sufficient, or, if the fines were not large enough, they might be made larger. The Treaty with the Indians stipulated, that if any inhabitant of the United States went upon these lands, they would be out of the protection of Government, the Indians might treat them as they pleased, which, he thought, offered great encouragement to the people to go upon their territory. Taking all these circumstances together, he thought the penalty of the old act was sufficient.

After a few words from Mr. KITTERA and Mr. HILLHOUSE, the question was taken, when there appeared for striking out the clause 33, against it 28. The Committee rose and the House adjourned.

MONDAY, April 11.

Mr. PARKER moved to take up the bill for establishing trading-houses for the Indians, with the report of the committee appointed to confer with the Senate, respecting certain amendments which were insisted upon by the House, when the report was agreed to.

EXPORTATION OF BREADSTUFFS.

Mr. CHRISTIE wished to call up the resolution he had laid upon the table respecting the scarcity of Indian corn, in order that it might be referred to a committee to make a report thereon; as, from accounts he had received, he thought it would be very desirable to give immediate attention to the subject.

Mr. HENDERSON moved that "rye and rye meal," might be added to the resolution, which was agreed to, and added accordingly.

The reference to a committee was opposed by Messrs. COIT, BOURNE, and KITTERA, on the ground of giving unnecessary alarm, when they believed there was no foundation for it; but it was supported by Messrs. CHRISTIE, BLOUNT, and HENDERSON, who each gave an account of the great scarcity which prevailed in the parts of the country from which they came, and urged the impolicy of carrying off that produce to feed foreign nations, which their own poor stood in need of.

A committee of fifteen (a member from each State,) was agreed to be appointed to report upon the resolution.

INTERCOURSE WITH THE INDIANS.

The House then took up the bill regulating intercourse with the Indian tribes, in Committee of the Whole.

Mr. SWIFT objected to the clause which enacts that the losses sustained by the white people from the Indians on the frontier, shall be made good by Government. Persons who went to live on the frontier, he said, knew that their property was subject to the depredations of the Indians. Provided the sum thus paid for losses sustained by the frontier inhabitants could be deducted by the sum which Government had stipulated to pay the Indians, he should have no objection to the measure. He was afraid by this clause particularly, if not altered in

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the way he proposed, that a door would be opened to fraud, as it would be impossible to ascertain with precision the amount of any damage done by the Indians.

After some observations from Mr. HILLHOUSE, a provision was inserted in the bill to the above effect.

Mr. BLOUNT observed, that it was a practice very frequent on the frontier, to turn cattle upon the lands of the Indians, to graze, and when persons went to look after them, or to bring them off, disputes would sometimes happen, which occasioned serious mischiefs; he therefore moved a clause to prevent the practice in future.

Mr. HILLHOUSE said, that Government had received complaints on that ground, and he thought the provision a proper one.

The amendment was agreed to, the Committee rose and reported the bill, and the House took it up, and when they came to the clause making a forfeiture of land in certain cases, Mr. BLOUNT again moved to strike it out, when the question was taken by yeas and nays, and were for striking the clause out 36, against it 47, as follows:

YEAS.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Thomas Claiborne, Isaac Coles, Jesse Franklin, Albert Gallatin, James Gillespie, Andrew Gregg, William Barry Grove, Wade Hampton, Carter B Harrison, Jonathan N. Havens, Daniel Heister, James Holland, George Jackson, Matthew Locke, William Lyman, Samuel Macley, Nathaniel Macon, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, Alexander D. Orr, John Page, Josiah Parker, John Patton, Abalom Tatom, and Abraham Venable.

NAYS.—Fisher Ames, Benjamin Bourne, Theophilus Bradbury, Daniel Buck, Gabriel Christie, Joshua Coit, William Cooper, Jeremiah Crabb, Henry Dearborn, George Dent, Samuel Earle, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, John Hathorn, John Heath, Thomas Henderson, James Hillhouse, William Hindman, Samuel Lyman, Francis Malbone, William Vans Murray, John Reed, Robt. Rutherford, Theodore Sedgwick, John S. Sherburne, Jeremiah Smith, Nathaniel Smith, Israel Smith, Isaac Smith, William Smith, Thomas Sprigg, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Philip Van Cortlandt, Peleg Wadsworth, and John Williams.

The bill was then ordered to be engrossed and read a third time on Wednesday next.

MILITARY ESTABLISHMENT.

The House went into Committee of the Whole on the report of the committee appointed to inquire whether any, and what, alterations ought to be made in the present Military Establishment of the United States; and the report of the committee was read, as follows:

"That, in their opinion, the events which have changed, and may be expected still further to change the relative situation of our frontiers, render a review of our Military Establishment at this time expedient. It is the opinion of the committee that the force to be

provided for the defensive protection of the frontiers, need not be so great as what had been contemplated for carrying on the war against the different tribes of hostile Indians, and which is the basis of the present Military Establishment.

"By the last act on this subject, of March 3, 1795, the military force of the United States is to be composed of the corps of artillerists and engineers, to consist of 992 non-commissioned officers, privates, and musicians, and a legion to consist of 4,800 non-commissioned officers, privates, and musicians. Of these there will still be in actual service on the first of July, next, 3,004, which the committee suppose will be sufficient to be continued as the present Military Establishment: they, therefore, recommend the following resolutions:

"*Resolved*, That the present Military Establishment of the United States ought not to exceed 3,000 non-commissioned officers, privates, and musicians.

"*Resolved*, That these ought to consist of the corps of artillerists and engineers, as established by the act of the 9th of May, 1794, and of four regiments of infantry, of eight companies each.

"*Resolved*, That there be one Brigadier General, five Lieutenant Colonels Commandants, eleven Majors, one Brigade Quartermaster, and company officers according to the rules and regulations for the discipline of the troops of the United States."

Mr. SEDGWICK wished for information on the subject. He conceived it would make some difference whether they had or had not to garrison the posts at present in the hands of Great Britain.

Mr. BALDWIN said, they had got as good information as could be given. The accounts given included the posts and all the frontier. Some statements made the number of men necessary somewhat more than 3,000, others somewhat less; but they took the number as that which would be in service on the first of July next. As to the question of the gentleman from Massachusetts, it would make little difference whether they followed the line of the lakes or the posts as run by the territory.

Mr. SEDGWICK said, he did not perfectly understand the Chairman of the committee. He did not understand that there were any posts on this side of the British posts. He could not see, therefore, but it must make a difference between a calculation to garrison those posts, or the contrary. They were or were not to be garrisoned. If they were to be garrisoned, it would certainly require a greater number of men than if they were not to be garrisoned.

Mr. DEARBORN said, that, in calculating the number of men necessary for a Peace Establishment, he had endeavored to ascertain, as near as possible, the number of posts to be garrisoned, and the number of men necessary for each garrison, in the different parts of the United States. It would make very little difference, in his opinion, as to the number of men which would be necessary, whether the posts now occupied by the British within our territory, were put into our possession or not. If we got possession of these posts we shall put proper garrisons into them; but if they are not given up we shall undoubtedly think it necessary to place larger garrisons at

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those posts which will be in the vicinity of the British garrisons.

From every calculation which he had been able to make, he was convinced that 2,500 rank and file would be fully adequate to all the objects for which men under present circumstances could be wanted; but, as we should have about 3,000 men in the field on the first of July next, he had consented, in the select committee, to the number mentioned in the report. Three thousand men were nearly equal to the number which had composed our real military force through the course of the Indian war. They were not, therefore, about to reduce our army, but to consolidate it.

With respect to the organization, he believed that most gentlemen, who had any military knowledge, would be of opinion that when troops were to be detached in the manner our small army must be, in small parties to a great number of posts, where their duty would be almost altogether garrison duty, that neither cavalry, which was very expensive, grenadiers, light infantry, or riflemen, would be either necessary or proper; but that the establishment, as reported, should be composed of the regiments of artillery and engineers, as already established by law, which was to consist of very near one thousand men, and four small regiments, of about five hundred men each; each regiment to be composed of eight companies of infantry. He thought it was necessary that there should be a large proportion of officers, on account of the detached situation of the troops, and that, by having small regiments fully officered, that object would be obtained. Upon the whole, he was clearly of opinion that the report now under consideration was well calculated for the interest of the United States.

Mr. HARTLEY said, he did not acquiesce in the principle of this business. He did not think it prudent to go into any alteration in their Military Establishment. He did not agree with the committee that there had been a change of circumstances. There was a power in the PRESIDENT to make any alterations he might deem necessary. But he thought those who were friends to the Constitution and Government ought not to vote for the report. He did not agree with the gentleman from Massachusetts, [Mr. DEARBORN,] that there was no necessity for infantry and grenadiers. It was changing every thing without the support of experience for the change. At this time, before the Treaty with Great Britain was carried into effect, it was not proper to make this change. He hoped there would not be a majority in that Committee to make the proposed alteration. He wished the subject might have been determined late in the session.

Mr. GILES was in favor of the report of the committee. There had been different opinions held in that House with respect to the energy of Government. It was the opinion of the gentleman from Pennsylvania [Mr. HARTLEY] that a large Military Establishment was necessary for the support of Government. This Government said Mr. G., was never thought to be a coercive

one. He thought there was sufficient energy in the people to support their own Government without the aid of a Military Establishment. And was it to be said, because certain gentlemen were opposed to standing armies, they were also opposed to the Government? He believed that Government would be better without an army, as it was always better for Governments to rest upon the affections of the people than to be supported by terror. He had always opposed the measure, because he thought it would not strengthen its hands. It was an extraordinary thing, because he did this, he was called an enemy to Government. He could not forbear making these remarks, as he thought they were called for. He should vote in favor of a reduction of the Military Establishment.

Mr. MURRAY could see no analogy between the energy of Government referred to by the member last up, and that referred to by the gentleman from Pennsylvania, [Mr. HARTLEY.] It was meant for certain ends. It was not meant to coerce the people of the United States, but the enemies of the United States. What sort of temper must the gentleman possess to wrest the gentleman's meaning so much? What connexion was there between the energy of Government and the military? Had the army ever been called upon to coerce the people of the United States? The militia had, indeed, been called in to quell the late insurrection.

The energy of the army was employed to guard their frontier. It was an energy appropriate to that particular object. But the gentleman from Virginia spoke as if he would have the people believe that there were men in that House who wished to coerce the people of the United States. Neither he, nor any man with whom he acted, he would venture to assert, ever entertained such an idea; and it was not fitting that such a doctrine should go abroad without being exposed. For, said Mr. M., you may rail at Government, and pour out abuse against it as long as you please, but once communicate an idea that there was a party in that House who were suspected of an intention of coercing the people by an established military force or standing army, and you make it the duty of the people to overset the Government if that party prevail. At present, he said, while the United States stand on a middle ground, on which the dispute on the execution or inexecution of the Treaty placed them, it was, in his opinion, highly impolitic to give up any part of the Military Establishment. The people look forward to the first of June for the delivery of the Western posts. This public expectation may be gratified if we are wise; if we are weak enough to reject the Treaty expressly, it will be defeated. Where are we in that state of things? Policy would not dictate a reduction of force in that state of things.

But, he observed, if the army is considered in relation to the Peace Establishment, we ought not to reduce it. By the delivery of those long-contested posts the sphere of protection is to be enlarged. You come to a state of wider or close

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contact with nations, who are scarcely susceptible, from their state of savageness, of the confidential relations of lasting peace; no such thing is to be anticipated. Your peace with such nations touching your borders, through an almost immeasurable frontier, is but an armed neutrality, an armed peace, a state of perpetual vigilance, and your force must be adequate in many relative points to sudden war. For his own part, residing as he did beyond the reach of Indian wars, nothing but a principle of justice to the whole Union would lead him to wish to see an armed force, at the public expense, upon the frontier. He would repeat, that the idea which the gentleman threw out, that a party in this Government wished to coerce the freemen by a standing army was an empty dream, which he did not think that gentleman himself believed. That an army of five or six thousand men, acting in so remote a scene, and never heard of but in the victories they gain over the external enemies of the country, should prove a source of alarm to such a nation as this, so armed as they are, so free, so spirited, and enlightened, and that nation, too, of at least five millions of souls, appeared to him to be too ridiculous to be sustained against one moment's thought. That the doctrine which the gentleman talked of should have been the intention of any party, was, to him, equally extraordinary and unwarranted.

Mr. GALLATIN agreed with the gentleman last up, that there was no connection between a standing army and the support of the Constitution and Government; and, therefore, he was surprised to hear his colleague say, "that every friend to the Government and Constitution ought to vote against the reduction of the Military Establishment." He was not afraid of the army. He did not think that that army was either necessary for the support of Government or dangerous to the liberties of the people. He should not have risen had it not been for what had fallen from the gentleman from Maryland, [Mr. MURRAY] with respect to the frontiers. When the Military Establishment was raised to its present amount, it was on account of an Indian war. That war was now at an end. But that gentleman says the Military Establishment was necessary to guard the frontier. From 1783 to 1791 what were the troops on the frontiers? Very few; yet the frontier was as effectually protected as now. But a regular war had been determined upon, which, in his opinion, was not necessary for the protection and security of the frontier. Their defence would at all times depend more on the population and the inhabitants themselves than on a regular army. Peace, however, was now made, and, although it would not, perhaps, altogether prevent Indian depredations, a Peace Establishment was now sufficient.

With respect to the posts now in the hands of the British, it was of no consequence whether the men were placed in them, or in those of this side of them. But the number of troops now to be kept was nearly the same that they had had for some time past. There was another idea held

out. It was said that it was not yet known what may be done in this House with respect to the British Treaty. What was this idea calculated to produce? That if the House of Representatives did not carry the British Treaty into effect, war was in some degree connected with the event. As to himself, he had no such fears; and, in his opinion, the present question was merely a money bill. If there was no occasion for five thousand men, it was better that they should only have three, because it would save money. The saving of expense would be near \$600,000 a year, an object of first importance, in the present situation of the finances of the United States.

Mr. HARTLEY said, he did not expect his words would have been wrested for the purpose they had been used. His conduct would speak for him. He had fought in the cause of liberty and his country. He would not call himself a Democrat, nor an Aristocrat, but a Republican. Different members in that House held different opinions, though he hoped all meant well. He thought there was no necessity for pressing this business for a few days; he apprehended they were in a very critical situation.

Mr. VENABLE thought the present measure a very proper one; it took away the necessity of appropriating double the quantity of money necessary. Was it the intention of the gentleman to set up a Military Establishment? If so, it would be well to say so. It was a consideration whether they ought to make unnecessary appropriations of money. It was said, on a late occasion, this can be spared from the Military Establishment; but when they came to consider the subject, they were told it was not proper to reduce it. It was said this was a critical moment. This was an old cry. They had heretofore made appropriations for six thousand men, though three thousand only had been kept up. The present regulation, therefore, only went to prevent improper appropriations, and not to decrease the real number of men. He did not see that the present question had any relation to Democrats or Aristocrats. It was necessary they should have an eye to the expending of the public money, and if six or eight thousand dollars could be saved in the expenditure on this head, it was desirable.

Mr. CRABB hoped the resolution would be agreed to. It was not two years since six thousand men were deemed necessary under the pressure of Indian wars; and if that number was sufficient to carry on war, it was not surely necessary to have an equal number in peace. At the opening of the session the President told them they were at peace with all the world: they knew also that they had paid a certain price for peace; why, then, keep up the same number of men still? Would not gentlemen who were friendly to an increase of the Military Establishment, say, in case of any emergency or future Indian war: "We kept up such a number in time of peace, we must now increase them; and when that is closed we must continue them;" and so they might be drawn on by degrees to a large standing army. They were told that a standing army in time of peace of five

or six thousand men could be of no consequence; nothing dangerous to liberty could be apprehended from them. But, because he was not afraid of a dozen servants about his house, was he to keep them when he had no occasion for them? Was this economy? So with respect to the military. For, though that House or the country would never be afraid of a Military Establishment much more numerous than the one proposed, yet it ought to be as small as possible to answer the public objects. Both economy and policy supported this principle. They knew that most of the Powers of Europe had been led into slavery by standing armies. He hoped they should never pay men when they did not want them. They were told their situation was critical; and Treaties were improperly dragged into view. He did not think the Military Establishment had any connexion with the Treaties now before them. If they were to be involved in war, they had, he trusted, much better and more substantial resources than the present army, and that the same spirit which conducted them to honor and victory heretofore would not forsake them on any future occasion. He therefore hoped the proposed reduction in the military would take place.

Mr. HOLLAND wished to know what necessity there was for keeping up so many men as were proposed by the report. It was necessary for gentlemen who wished to have the large establishment kept up, to show the necessity for the smaller. The gentleman from Massachusetts [Mr. SEDGWICK] said, if the posts were given up they must be garrisoned. He understood that the keeping of those posts by the British occasioned a greater number of men to be kept up, as it was suspected they incited the Indians to commit depredations. The gentleman from Maryland [Mr. MURRAY] said the same thing. If they intended to follow the example of Great Britain, it would be proper to increase their Military Establishments; but it did not agree with the spirit of their Constitution to do so. It was an extraordinary circumstance, he said, that though the army was said to be wanted for the frontier, gentlemen from that quarter wish to reduce the Establishment, whilst gentlemen from the seaports, where no danger can be apprehended, wish to increase it. On the frontier, he believed, Military Establishments were looked upon as nuisances in time of peace.

Mr. FINDLEY said, in every stage of the Military Establishment, he had been in favor of it. An attempt was made last session to lessen it, which he opposed; but he saw no reason now against making the proposed reduction, and he should therefore vote for it. The object, he said was to new-model it, and keep up nearly the same force. The misfortune was, that they had heretofore had the name without the number. If the number had been sufficient for war, they would certainly be so for peace. The gentleman from North Carolina [Mr. HOLLAND] seemed to think there was no occasion for so many men. He did not appear to be acquainted with the frontier. They would be employed in the forts. This was a service to

which militia could not be called. He did not think three thousand would be too many. Their times would be expiring by degrees, and therefore a less number would not be sufficient. If the proposal had been for keeping up a skeleton of an army, he would not have voted for it.

Mr. GILES said it was well known that gentlemen had been called by unusual epithets, and insinuations had been thrown out that they had some designs upon Government. He always felt such insinuations too contemptible for his notice; but when they were reported in that House it became necessary to take some notice of them. It was with that view that he got up to deny the insinuation thrown out by a gentleman in the course of the debate. It had been remarked that it was improper to have been introduced. He thought it right to speak his sentiments in his place, in a style and manner which could not be mistaken. There was a difference of opinion in that House on Military Establishments. Various questions on that subject had been brought forward in that House, and various attempts made to increase it. At present it was the object of some gentlemen to keep up six thousand men. Their argument was, that that House might do something which would make these men necessary. Although, he said, six thousand men could not be looked upon as dangerous to the country, yet the very idea of a Military Establishment was to him a disagreeable thing. It naturally created patronage and expense, and it became them to have as little of either as possible. With respect to the gentleman's girding on his sword in the time of necessity, it was honorable to him, and he doubted not he was, as he said, a friend of liberty. He remarked that he honored the gentleman for his patriotic exertions during the late war. He himself was also a friend of liberty, but they seemed to differ somewhat in their opinions about supporting and preserving it. He did not think an army necessary to regulate that liberty. He should advocate such means as he thought best calculated to that end, but he did not believe that either standing armies or an unnecessary connexion with Great Britain would be favorable to liberty.

It had been said the chief destination of these men was the frontier. Against whom? Not the Indians; because they were at peace with them; therefore, that object did not exist. It was his opinion that there would be continual depredation; but there was no occasion for large armies to prevent them. The resolution did not go to lessen the real number. Heretofore they had, it was true, six thousand men on paper, but only three thousand in the field. It was his opinion that even this number was not necessary, but he saw it was the general opinion, and therefore he would agree to it.

Upon the whole, he believed it was advisable to have the paper establishment to correspond with the real as nearly as possible; for, although only three thousand men, there was seldom any surplus of money from the appropriation for the six thousand. He was very unwilling to go upon subjects of alarm; it was unnecessary to

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say there were some motives for alarm. It was his wish, and had always been his conduct, to make peace as much as possible. He could never, however, sit still, when an army was called the energy of Government. If gentlemen examined the Journals, they would find many propositions for increasing the Army Establishment, which had always been negatived.

Mr. HILLHOUSE hoped the resolution would be agreed to. He thought there was no occasion for a greater number of men than it expressed. He believed that gentlemen were correct when they stated, that though six thousand men were appropriated for, that only three thousand were in service. But appropriation, as had been before stated, did not make money flow into the Treasury. He did not think, as had been insinuated, that any part of the money was improperly expended.

Mr. HARPER was of opinion that three thousand men were sufficient for a Peace Establishment, and would therefore vote for the resolution.

The first resolution was agreed to, and the second and third, after some few observations on the propriety of introducing a Major General in addition, or instead, of a Brigadier General, which was proposed by Mr. BOURNE, and opposed by Mr. DEARBORN and Mr. DAYTON, were also agreed to. The Committee reported the resolutions, and the House took up, and went through them, and ordered a bill to be brought in.

REVENUE SERVICE.

The House went into a Committee of the Whole on the report of the Secretary of the Treasury on the petition of Hopley Yeaton and others, which, having gone through, the House agreed to, as follows:

Resolved, That provision ought to be made by law for raising the wages of the officers and men employed on board the revenue cutters.

Resolved, That provision ought to be made by law for a distribution of the fines, penalties, and forfeitures, incurred under the impost laws, and recovered in consequence of information given by officers on board any of the revenue cutters, among all the officers of such cutters; and that, in such cases, the distribution shall be one-third to the United States; one-third to the officers of customs, in manner as is now provided, relative to that part of the forfeitures they are entitled to; and one-third to the officers of such cutter, to be divided among them in proportion to their pay.

Resolved, That the PRESIDENT OF THE UNITED STATES be empowered to cause new revenue cutters to be built or purchased, in lieu of those which shall, from time to time, appear to be unfit for further service; and that, in lieu of the cutter lately employed in the bay and river Delaware, he be authorized to cause to be built or purchased a vessel suitable for a cutter, and to be employed occasionally in carrying despatches to foreign countries; and that the necessary expenses attending the purchase and repairs of the said cutters, be paid by the Collectors of the Customs, out of the proceeds of the duties on imports and the tonnage of vessels.

Ordered. That a bill or bills be brought in pursuant to the said resolutions, and that Mr. SHERBURN, Mr. COIT, and Mr. SWANWICK, do prepare and bring in the same.

DEBT DUE BANK UNITED STATES.

Mr. W. SMITH called for the order of the day on the bill providing for payment, in part, of the Debt due to the Bank of the United States, which, after some objections from Mr. GALLATIN, against taking the subject up at so late an hour, as the debate would probably be long, the House divided, and the question for taking it up was carried by a small majority.

Mr. GALLATIN said, the substance of this bill depended upon filling up the blanks, and therefore he hoped the blanks would be filled up in a Committee of the Whole. For this purpose, he moved to fill up the blank with \$1,200,000. He did not expect the subject to have been taken up to-day, and therefore he had not with him some calculations which he meant to introduce on the subject. But, as he did not expect the question would be taken, he would take occasion to speak of them to-morrow. Mr. G. then went into his reasons for wishing the blank to be filled up with \$1,200,000, instead of \$5,000,000.

Mr. W. SMITH said, the gentleman from Pennsylvania [Mr. GALLATIN] wished the blank to be filled up with \$1,200,000, instead of \$5,000,000. The gentleman did not deny that the United States owed the Bank that sum, nor did he propose any means of paying it. Mr. S. conceived that, whenever the public owed a sum of money, it was their duty to discharge it in money, or to give in lieu something which would enable the creditor to procure the money. The Bank had called upon Government for the money they owed it. The Bank had made considerable advances to Government, and they could not carry on their necessary operations, except they were paid the five millions now proposed to be funded; the Government owed them more than six millions, but it was proposed to fund only five. But the gentleman says, he is for paying only \$1,200,000, because, next year, they will probably be able to pay more. It was said that the Secretary of the Treasury did not expect, at the opening of the session, that this Debt was to be funded, but that it was to remain on the footing of the customary anticipations. Mr. S. referred to a late report of the Secretary of the Treasury, (which he read) wherein he states positively that it will be necessary to fund all the anticipations due to the Bank, as there were no means of discharging them, and the Bank were not in condition to make further advances.

The difference between five millions, with which he proposed to fill up the blank, and the sum of \$1,200,000 with which the gentleman from Pennsylvania proposed to fill it, consisted of the sum of \$3,800,000 the Bank had advanced by way of anticipations on the annual revenues. This sum that gentleman wished to be left unprovided for. But, in that case, it was obvious that the Bank could not advance Government any money, however great the extremity, and money was so diffi-

cult to be borrowed from any other source, that the movements of Government might be effectually arrested. If this sum of \$3,800,000 were not paid, they would be liable at any time to be called upon for it; whilst that Debt existed in its present shape, all the money which came into the Treasury was necessarily turned over to discharge it. Would it not, therefore, be a great advantage to Government to put this Debt out of the way for a number of years, by which means their current revenues would be liberated for their current expenses? Besides, the Treasury would then have a surplus of money in hand, and find a ready resource in the Bank to answer any contingency; it was certainly convenient and right always to have such a resource. But, if this was not done, all the money which came into the Treasury would be immediately paid to the Bank; and, in a case of emergency, the Government would be entirely destitute. The objection which the gentleman from Pennsylvania had to funding this Debt for a certain number of years, was, that they put it out of their power to pay it off. Mr. S. said it was very evident, that they could not pay off this Debt from their present revenue now with any probable increase; for, besides these five millions, there would be three millions and upwards of Domestic and Foreign Loans falling due before the year 1801, which they must pay. This would make an addition of \$620,000 per annum to their present expenditure, and must be paid out of new revenues, or new Loans. And in the year 1801, they had further to meet an additional expense of \$1,146,870 for the Deferred Debt. He acknowledged he did not know where gentlemen would find revenues to pay off all those sums, besides the Debt due to the Bank. He therefore thought it good policy to fund the five millions in the way proposed, that they might have a resource in an Institution which would be able to advance them money whenever occasion pressed them for it. He understood that the Treasury was now in an embarrassed situation, that they had applied to the Bank for an advance for the current service, and that the Bank was incapable of advancing any. It was well known that the interest which Government paid to the Bank for their money was only five per cent., though the Bank might, by discounts, make eight or nine of it. It was also well known that the income of the Bank of the United States was less than that of any other bank, owing entirely to their having so much money locked up in the hands of Government. Was it an advantage to the United States, who owned two millions of stock in that Bank, that, from their engaging so much of its money, they only received a dividend of eight per cent., whilst other banks divided twelve per cent. and upwards. The difference in the dividend to the United States was eighty thousand dollars per annum.

From these considerations, he thought the plan proposed by the Committee of Ways and Means not only just as it related to the Bank, but expedient in relation to Government. He hoped, therefore, when the blank came to be filled up, it will be filled up with five millions. For the present,

as it was past the usual hour of adjournment, he had no objection to the Committee's rising. He took, however, this opportunity of stating that he was not, as calumny had suggested, in the least interested in that institution. He had, a considerable time ago, sold all the property he had ever owned in the Bank. As the duty which devolved upon him, as Chairman of the Committee of Ways and Means, required his taking an active part in measures connected with that institution, he considered himself called upon to make this declaration.

The Committee now rose, and had leave to sit again.

TUESDAY, April 12.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list," with several amendments; to which they desire the concurrence of this House. The Senate have also passed the bill, entitled "An act declaring the consent of Congress to a certain act of the State of Maryland, and to continue an act declaring the assent of Congress to certain acts of the States of Maryland, Georgia, and Rhode Island and Providence Plantations, so far as the same respects Georgia and Rhode Island and Providence Plantations," with several amendments; to which they desire the concurrence of this House.

Mr. SHERBURNE, from the committee to whom was referred the subject of the Revenue Cutters, brought in a bill on the subject; which was twice read, and ordered to be committed to a Committee of the Whole to-morrow.

Mr. HARRISON, from the committee to whom was referred the subject of regulating the Weights and Measures of the United States, made a report; which was twice read, and referred to a Committee of the Whole on Monday.

Mr. DEARBORN, from the committee to whom was referred the PRESIDENT's Message relative to the Territory South of the river Ohio, reported that that Territory, now bearing the name of the State of Tennessee, was entitled to all the privileges enjoyed by the other States of the Union, and that it should be one of the sixteen States of America. The report was twice read, and committed to a Committee of the Whole on Tuesday next.

DEBT DUE BANK UNITED STATES.

The order of the day being called for, the House formed itself into a Committee of the Whole, on the bill making provision, in part, for the payment of the Debt due to the Bank of the United States. The motion made by Mr. GALLATIN to strike out 5,000,000 and insert 1,200,000 dollars being under consideration—

Mr. SEDGWICK said, the question before the Committee was, whether the blank in the bill should be filled with 1,200,000 or with 5,000,000 dollars? in other words, whether the Loan which the bill proposed should be of the former or latter amount?

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The gentleman from Pennsylvania [Mr. GALLATIN] had yesterday declared, that, at the commencement of the present session, the Secretary of the Treasury did not expect that any such Loan would have been proposed; nor did the Bank then expect the payment of the Loans with which it had accommodated the Government. In support of his declaration, the gentleman read a passage from the first report made the present session by the Secretary. That passage declared, that the anticipations of the revenue which might exist at the close of the present year must be continued the next. The gentleman had from hence inferred, that those anticipations were to continue in their present form. The report imported no such idea, but only that the Secretary did not expect any measure would be adopted this session for the extinguishment of those Loans by payment. This was not only the meaning of the Secretary, but that meaning was perfectly well known to the gentleman himself at the moment he made this declaration. To prove, at the same time, the meaning of the Secretary, and that that meaning was well known to the gentleman, he would take the liberty to state some facts which he certainly would not deny.

Soon after the appointment of the Committee of Ways and Means, and, he believed, at the very first meeting of that committee, and at which meeting the gentleman was present, an interview took place between the committee and the Secretary. At that time the Secretary made the proposal, the object of which was detailed in the bill, with this only difference, that his proposal extended to the sum-total of the amount of the Debt due to the Bank. This was about the time that the report was made. The gentleman then did know, at that time, that the Secretary's report did not mean what he had declared it did.

This conclusion was irresistible. This, however, was not all. Very early in the session, a report of a committee of the Bank was put into the hands of the gentleman: he read this report, and considered its contents. This report commented on this very proposition. It was, too, in consequence of a proposition made to the Bank by the Secretary—a proposition in which the Secretary and the committee of the Bank perfectly concurred. It was not true, then, that the Secretary of the Treasury, at the commencement of the present session, expected that the Loans for anticipations were to continue in their present form, but that they were to be exchanged for the Loan which was proposed by the bill. In this idea the Bank perfectly concurred. With all these facts, the gentleman was well acquainted: it was then incumbent on him to reconcile his declarations with the state of facts which he perfectly knew.

Here Mr. S. read the following passages from the report of the Committee of the Bank:

"It is very interesting to the Bank to devise some practicable means of liquidating their obligations, which have grown to such an enormous and disproportionate size as to paralyze its operations, by depriving it of so large a portion of its capital." "It is therefore recommended that a committee be appointed to confer with the Secretary on the subject of this letter, to press on

his attention the necessity of a speedy extinction of the Government Loans, and to indicate a disposition on the part of the Bank to receive a stock, to be sold an account of the United States, to be created on the terms above mentioned.

Those terms, the gentleman from Pennsylvania well knew, were precisely the same as those detailed in the bill.

The gentleman had made a very serious charge against a number of gentlemen in this House: He said that it was "an object to perpetuate and increase the Public Debt." This charge was justified neither by the general tenor, nor by any one act of the political lives, of those gentlemen. Notwithstanding they had, in every instance, and under the weight of an embarrassing and powerful opposition, exerted, on every occasion, all their faculties to improve and enrich the public revenues. The same gentlemen had, during the last session, under the weight of the same opposition, carried through an act which was intended to, and he believed would, ultimately annihilate the Debt. Yet, those who had never attempted to propose any measure to improve the revenue, or decrease the Debt—who had never proposed any system of their own—but, on the contrary, constantly opposed and embarrassed every measure, had the boldness to charge the men who were endeavoring to support the Public Credit and diminish the Public Debt, with designs which they neither avowed nor entertained. He would declare that men of pure and honorable intentions did not lightly impute impure motives to others.

If, indeed, the gentlemen against whom this foul charge was made had been known to have combined, "in every measure which might obstruct the operation of law" or Government; if they had publicly declared to the world, "that the men who would accept of the offices, to perform the necessary functions of Government, were lost to every sense of virtue;" "that, from them was to be withholden every comfort of life which depended on those duties, which, as men and fellow-citizens, we owe to each other;" if the gentlemen had been guilty of such nefarious practices, there would have been a sound foundation for the charge of the gentleman. But they, it was known, had been innocent of such actions; and it was also well known that they were equally so of the intentions which the gentleman had unjustly imputed to them.

It would certainly, with every man who viewed the subject of Public Credit as he did, be of little importance whether the finances had or had not been wisely administered. It would, however, be proper, after what had been said on this occasion, to state generally what had been done by himself the other day in detail—that the extraordinary expenses which had been sustained and discharged since the commencement of this Government, had amounted to at least

	\$10,000,000
That there has been paid in purchases	2,500,000
Paid of unfunded debt	5,000,000
Purchases of Bank stock	2,000,000
Due in credits to the revenue	4,500,000

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Paid in pursuance of the reduction act of last session	600,000
	<hr/> 24,600,000
For this there was due to the Bank (including \$1,400,000, due for our stock in that institution) the sum of (excluding the Loan of 400,000, to pay the instalment due in Amsterdam)	6,200,000
	<hr/>
Leaving a balance, beyond ordinary expenditures, of	18,400,000
	<hr/>

He believed no man, at the commencement of the Government, would have predicted that such success, and under such circumstances, could have attended its administration.

Mr. S. then proceeded to a particular statement of the several Loans which had been made of the Bank. By which it appeared that \$2,500,000 had been loaned at five, and the residue at six per cent. That one million of this was advanced for the suppression of the insurrection, and another million (including \$200,000 had of the Bank of New York) for the peace with Algiers. That, in the former instance, the Government had been enabled, by the aid it received from that institution, to quell without bloodshed an insurrection raised by misrepresentation and falsehood—an insurrection which threatened the peace, liberty, and happiness of this country, and to deluge our land with the blood of contending brethren. In the latter instance, the assistance we had received had been the means of unchaining our citizens held in cruel and savage slavery.

It ought to be recollected that the whole specie stock of the Bank amounted to no more originally than \$2,000,000. To this had been added \$600,000, paid by the United States. From this statement, it was obvious that the Bank must, to afford the accommodation which it had to Government, have disposed of a considerable portion of that part of its capital which consisted of funded stock—a stock bearing an interest of six per cent., with ample funds mortgaged for its security. This security had been relinquished; the proceeds had again been intrusted to the Government, and for a considerable part at a lower rate of interest. For their security they had relied alone on the public faith, the result of this question would decide the value of the pledge. They now demanded a fulfilment of the public engagements. Money we had not. They were willing to receive payment of the same nature, substantially, as that which they had disposed of, to obtain the money which they had loaned, and would negotiate the sales of it without any expense to the United States. Under these offers, the most fair and reasonable which could be expected, the question was whether we would violate the public faith by rejecting the demand?

It had been agreed, and was indeed most evident, that the Bank could not, consistently with its interest or safety, make any further advances, whatever the public exigencies might be. Should any unforeseen pressure occur, where was the Go-

vernment to obtain the necessary supplies?—Not from Europe, it was agreed. Not from private individuals, because the enterprising capitalists in this country could more profitably employ their capital than by Loans to the Government; not from other banks, because their capitals were inadequate to supply the demands of individuals, which was a more lucrative branch of their business. Besides, did none of these objections exist, who would intrust their property in the hands of a Government which made its own convenience, and not the stipulations of its contracts, the rule of its conduct in fulfilling, or more properly violating its promises? What, then, were to be the circumstances of this country in the event of an unforeseen demand, for which every Government ought to be prepared? If war, or insurrection, or captured citizens, should require our aid, would our Government be in the situation to grant that relief and protection for which the guardians of its security and happiness ought always to be prepared? But the gentleman had said, that this measure would protract the period of the ultimate extinguishment of the Public Debt. This was a circumstance which he thought no honest man ought to take into consideration. We ought only to inquire into the amount and terms of the public contracts, and, without hesitation or further inquiry, to perform them with good faith. But he did not believe this measure would in the least degree shackle the public faculties. It had already been stated, by his friend from South Carolina, [Mr. SMITH.] that, until the year 1800, besides the \$600,000 required by the reduction law, another \$600,000 would be necessary to perform the public engagements. It was known that after that time another annual demand of \$1,200,000 would occur. We had, besides a considerable amount of Foreign Debt, \$1,200,000 of unfunded debts, (he had spoken in round numbers,) and the whole three per cents. to operate upon. Was there not here, in the opinion of the most sanguine man, sufficient subjects for the existing faculties of the community, or for any which could be created? If, then, no injury could accrue to the public, it would seem to him mere wantonness to reject the proposition.

But it had been said that the public had a right to expect accommodation from the Bank, because we were large depositors and large stockholders. How, he asked, were those accommodations to be obtained? By contracts, or without them? We had been accommodated by mutual agreement, and might be again if we honestly performed our engagements. Were we to obtain these accommodations by a violation of public faith? He hoped and believed not. Having received the property of the institution by contract, and refusing to perform our engagements, from what source was the Bank to expect reimbursement? It was answered, by taxes. Indirect taxes, however, the gentleman had constantly resisted. No taxes had been imposed the present session; none to any considerable amount probably would be. On these the gentleman did not depend; he had at all times opposed them, as a member of the

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Committee of Ways and Means. These Loans, then, were to be satisfied by direct taxes. It would become proper, then, to consider whether at all, and if at all, when payment might be expected by those means? Direct taxes, he said, had forever been considered as the substitutes for every tax which had been proposed. He could not help observing that it was well known that every House previous to the present, and he did not believe this would be found an exception, had been decidedly opposed to laying direct taxes. On the Committee of Ways and Means it was found that direct taxes, in the opinion of some gentlemen, were to be resorted to. A sub-committee was appointed to consider the subject, who, after mature deliberation, reported that the laying and collecting a direct tax was practicable, but that they had not, and could not obtain, the present session, the materials necessary for that purpose. The business finally resulted in the direction to the Secretary of the Treasury to report a plan for consideration at the next session.

He did not believe that any plan which could be devised would meet the approbation of the two branches of the Legislature. Although he should always be willing to consider the subject with candor, yet he much doubted if he, even in a time of tranquility, should assent to a mode of taxation which would be so burdensome and oppressive. But should it obtain the next session, he asked, would it be productive to the amount necessary to discharge those demands which ought now to be satisfied? It would doubtless, with every degree of success which could be supposed to attend the measure, be some years before the payment which is now demanded in the terms of contract, could be made. In the mean time the operations of the Bank are to be crippled, and the Government left without any resource in case of the most pressing emergency. He had made these observations from a sense of public duty, from a regard to the preservation of public faith, and without any personal interest, never having had the least property in the Bank.

Mr. GALLATIN said that the question now before them was, whether they should fund the anticipations on the revenue, which had been advanced by the Bank, and amounted to \$3,800,000, or whether they would, by refusing to fund that sum, declare their intention to provide means for discharging those anticipations? It was agreed on all hands that they were pressing hard on the Treasury; that they must render the situation of the gentleman at the head of that Department precarious and unpleasant; that they were a dear mode of procuring money, and that some means must be devised to get rid of them. Upon the \$1,200,000 (which together with the \$3,800,000, anticipations, made the sum of five millions contemplated by the bill) there was no difference of opinion. This last sum consisted of the following items: instalment due to Holland \$400,000; two instalments due to the Bank of the United States, for the Bank Stock Loan, \$400,000; and due to the Banks of New York and the United States, for the Algiers Loan, \$400,000. For the two

first items no provision had been contemplated, except new loans. The taxes appropriated for the repayment of the last had proved insufficient. These several sums, of \$1,200,000, had or would become due during the course of the present year, and must be provided for. Even if they were of opinion to raise new revenues, those could not be productive during the course of the present year, and no resource was left but to borrow; and if money could not be got except upon the terms contemplated by the bill, however averse he was to the funding of a debt and postponing the time of its payment to so remote a period, he saw at present no alternative, and they were forced to acquiesce in the measure. But this was not the case with the \$3,800,000 anticipations. The Bank had heretofore continued their loans in anticipation of our revenues from year to year; there was no official paper before them to show that they meant to do so no longer, and that that institution had required that that sum should be paid at once during the present year. It was not contemplated by the Secretary of the Treasury, at the opening of the session; for, in his report to the House, of the 4th of December, he says: "But as a great proportion of the revenue arising from imports is subject to long credit, the customary anticipations, by means of loans, will continue to be necessary." And again, after having stated the deficiency of \$1,200,000 for the same objects above mentioned, he says: "There are other loans detailed in the annexed statement which will also fall due to the Bank of the United States in the course of the ensuing year; but as they are merely anticipations of the revenue, for refunding which there exist legal provisions, they are introduced to show the course of receipt and expenditure, and the extent to which future anticipations will be requisite." And finally gives a conclusion, "That the anticipations of the revenue which may exist at the close of the present year, must be continued for the year ensuing."

Indeed the gentlemen who press the measure of funding these anticipations, seem to do it from a belief that it will be a measure advantageous to the United States. He would therefore consider the subject at present only in regard to the interest of the public, and upon a supposition that the Bank were willing, provided the instalments of the other loans were regularly paid, to continue the loans in anticipation of the revenue, and would be satisfied provided a gradual and certain mode of repayment were adopted. It was, therefore on this ground that he differed in opinion with the gentlemen who wished the whole of the five millions to be funded. The plan of those gentlemen, in order to get rid of these anticipations, is to fund them, that is to say, in order to pay them, to borrow money by creating a stock irredeemable for twenty-three years; in other words, to postpone their payment for twenty-three years. His plan was, to provide means for paying them in four or five years, and to raise a revenue, either by increasing the taxes or diminishing the expenditure sufficient for that purpose. His plan was to pay; the plan of those gentlemen

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not to pay, but to borrow, to continue the debt for twenty-three years longer; and he would not hesitate to repeat that the effect of that plan would be to perpetuate the debt. He would not be deterred by any personal abuse, and no more by that of the gentleman from Massachusetts [Mr. SEDGWICK] than by that of any other person, from expressing his sentiments on that subject as well as on any other; and conscious as he was that personal abuse would have no influence upon him, and never could prevent his doing what he thought to be his duty, he would, without remarking on what had fallen from that gentleman, proceed to that part of the subject which seemed to be the most important.

A question had naturally arisen whilst those anticipations were under consideration: How had they accumulated to that amount? Some gentlemen had been at great pains to prove to the House that they were not a proof that the Debt of the United States had increased; some, indeed, had gone so far as to attempt to prove that they were no debt at all. He would beg the Committee to recollect that neither himself nor any other member of this House had said that the Debt had increased; they had not touched that subject upon the present occasion. It might be supposed that it was not strictly in order to discuss it, but as the question was started by the gentlemen in favor of the measure now under consideration; as their intention was, by representing our financial situation in the point of view they had, to persuade this House that there was no danger in going on, anticipating and funding, spending money, and borrowing; and as the gentleman last up [Mr. SEDGWICK] had given them a statement of ten millions of dollars debt actually redeemed and extinguished, not to speak of some other millions operated upon, he found himself impelled to take up the subject, and to state what appeared to him to be our present situation.

He first stated that he would compare the whole amount of actual receipts in the Treasury, as arising from the resources of the country, and excluding whatever had been received by means of Domestic or Foreign Loans, with the whole amount of actual disbursements for the current expenditures of Government and the interest on the Public Debt, excluding whatever had been applied to the payment on redemption of the principal of the Public Debt. If the expenditures had exceeded the receipts, the difference must have been supplied by borrowing money, by creating a debt. He then stated \$2,759,282 56, as the excess of expenditures over the receipts, from the establishment of this Government to the 31st December, 1794, the latest period to which complete statements have been laid before the House. But from that sum must be deducted the following sums, which were applied by the Sinking Fund to the redemption of the Domestic Debt, out of the actual resources of the United States. For, he observed, he ought not to take into account what might have been redeemed by the application of moneys drawn from loans; as this was

only shifting the debt, borrowing with one hand and paying with the other.

Applied to the Sinking Fund	-	\$957,770 65
Certain claims under the old Government, not funded and paid, he rated at	-	450,000 00

\$1,407,770 65

Total amount of debt reduced by the application of the actual resources of the United States, which sum being deducted from the above sum of \$3,759,282 56, leaves an actual debt of about \$1,350,000 on this score.

As far as he could judge from the official accounts of the year 1795, he was of opinion that the excess of expenditures over receipts for that year had created an increase of debt of at least \$1,000,000, but which he thought would be found to amount to \$1,500,000.

Those two sums made a total amount of about \$2,800,000, being the excess of expenditures over the receipts, from the establishment of this Government to the 1st of January, 1796. To prove his assertion he produced the following statement, abstracted from the official yearly documents:

SUMMARY STATEMENT, exhibiting the receipts into the Treasury from Domestic resources, other than the proceeds of Domestic Loans; and also the expenditures of the United States charged to the said Funds other than for the repayment of Domestic Loans.

From the commencement of the present Government to the end of the year 1791.

RECEIPTS.

From duties on imports and tonnage	-	\$4,399,472 99
From sundries	-	834 82
From balances due on accounts which originated under the late Government	-	11,001 11
		<u>4,410,808 92</u>

EXPENDITURES.

For the Civil List, including annuities and grants	-	\$719,828 25
For the War Department, including pensions to invalids and Indian expenses	-	835,617 91
(\$8,962 of this sum applied to France.)		
For the intercourse with foreign nations	-	14,733 33
For sundries, including light-houses, enumeration of inhabitants of the United States, contingent expenses of Government, miscellaneous claims, &c.	-	56,401 19
For sundry claims arising from the late Government	-	293,013 84
For interest on the Public Debt, viz.: On account of the interest on the Dutch Debt, for the year 1790	\$35 087 71	
One year's interest (1791) on the French Debt	-	294,445 93

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One year's interest on Dutch Debt -	222,272 16
One year's interest on Spanish Debt -	8,700 55
One year's interest on Domestic Debt -	1,140,177 20
	<u>1,700,683 35</u>
For moneys advanced to Nourse and Olney -	857 83
For interest on Domestic Loans -	2,598 13
Transferred to Sinking Fund, being part of the surplus revenue of 1790 -	699,984 23
Balance in favor of the Treasury -	87,690 72
	<u>4,410,808 92</u>

For the year 1792.

RECEIPTS.

From duties on imports and tonnage -	\$3,579,499 06½
From duties on stills and domestic distilled spirits -	72,514 59½
From balance of Bank dividend -	8,028 00
From Sundries -	7,520 21
From balances due on accounts which originated under the late Government -	4,702 82
Balance deficient -	1,517,650 70
	<u>5,189,945 39</u>

EXPENDITURES.

For sundry claims arising from the late Government -	\$135,723 85
Civil List (not including annuities and grants) -	368,319 86
War Department, as per above -	1,215,812 96
Sundries, including as per above, and also Mint Establishment, annuities and grants, and intercourse with foreign nations -	160,351 89
Interest on the Public Debt for the year 1792, viz: -	
On Domestic Debt -	\$2,373,611 28
On Foreign Debt -	678,389 63
	<u>3,052,021 91</u>
Transferred to Sinking Fund, as per above -	257,786 42
	<u>\$5,189,945 39</u>

For the year 1793.

RECEIPTS.

From duties on imports and tonnage -	\$4,344,358 26
From duties on stills and domestic distilled spirits -	248,654 00
Balance of Bank dividend -	38,500 00
Sundries -	12,962 30
Balances arising from the late Government -	8,448 58
	<u>\$4,652,923 14</u>

EXPENDITURES.

For sundry claims arising from the late Government -	7,120 29
Civil List -	334,263 29
War Department -	1,237,619 72
Sundries -	131,066 96
Interest on Domestic Debt -	\$2,079,105 76
Interest on Domestic Loans -	18,753 41
Interest on Foreign Debt -	693,141 34
	<u>2,791,000 51</u>
Balance in favor of the Treasury -	151,852 37
	<u>\$4,652,923 14</u>

For the year 1794.

RECEIPTS.

From duties on imports and tonnage -	\$4,843,707 25
From duties on stills and other internal duties -	231,447 65
Balance of Bank Dividend -	55,500 00
Sundries -	52,584 47
Balances arising from the late Government -	693 50
Balance deficient -	1,480,575 05
	<u>\$6,664,507 92</u>

EXPENDITURES.

For sundry claims arising from the late Government -	\$31,360 01
Civil List -	431,999 47
War Department, including \$265,344 90, for militia, on the Western expedition, and \$42,049 66 for fortifications -	2,733,539 29
Naval Armament -	61,408 97
Sundries -	170,830 40
Extraordinary expense of intercourse with foreign nations -	56,408 51
Interest on Domestic Debt -	\$2,455,858 60
On do. Loans -	48,694 44
On Foreign Debt -	874,410 23
	<u>3,178,961 27</u>
	<u>\$6,664,507 92</u>

Sketch of the year 1795.

RECEIPTS.

From duties on imports and tonnage -	\$5,588,961 26
From duties on stills, spirits, snuff, sugar, carriages, sales at auction, licenses on retailers (a) -	337,255 36
Bank dividend (whole amount) -	160,000 00
Sundries -	41,365 53
Balances arising from late Government -	5,317 95
Balance deficient -	1,402,261 63
	<u>\$7,535,151 73</u>

(a) From this amount should be deducted the drawbacks on spirits, sugar, and snuff; but the amount

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should then be added to that of duties on imports, so as not to change the whole.

EXPENDITURES.

Civil List	-	\$366,105 44
War Department (including military pensions, fortifications, and expenses of Western expedition)	-	2,659,490 44
Naval Armament	-	410,562 03
Sundries	-	109,276 91
Extraordinary Expenses of intercourse with foreign nations	-	897,680 12
Interest on Domestic Debt (b)	-	\$2,116,615 80
On Domestic Loans	-	243,099 99
On Foreign Debt (c)	-	732,321 00
		<u>\$3,092,086 79</u>
		<u>\$7,535,151 73</u>

(b) This is the amount due for one year; the amount actually paid at the Treasury was \$2,727,959 07. The difference arises from the payment of two per cent. made on the six per cent. stock; which is not charged here as a current expenditure; it being a redemption of principal of Debt.

(c) This sum is not accurate.

Recapitulation of Balances.

RECEIPTS.

In favor of Treasury, 31st December, 1791	-	\$87,000 72
For the year 1793	-	151,852 37
Difference between balance stated in 1791 and that charged to Treasurer	-	10
Balance deficient on 31st December, 1794	-	2,759,282 56
		<u>\$2,998,225 75</u>

EXPENDITURES.

Balance deficient in 1792	-	\$1,517,650 00
Balance deficient in 1794	-	1,480,575 05
		<u>\$2,998,225 75</u>

RECEIPTS.

Sums applied to pay the principal of debts, viz:		
To the Sinking Fund,		
in 1790 and 1791	-	\$699,984 23
Do. in 1792	-	257,786 42
		<u>\$957,770 85</u>
To claims arising from late Government in 1789, 1790, and 1791	-	232,012 73
Do. in 1792	-	131,020 53
Do. 1793	-	
Do. 1794	-	29,338 22
Balance deficient on the 1st of January, 1796, being the excess of current expenditures beyond receipts, to that date	-	2,761,392 06
		<u>\$4,161,534 19</u>

EXPENDITURES.

Balance deficient per contra	-	\$2,759,282 56
Balance estimated as deficient for the year 1795	-	1,402,251 63
		<u>\$4,161,534 19</u>

This amount had been expended beyond the moneys actually received into the Treasury which arose from our own resources. It had been supplied by Domestic and Foreign Loans, and was an increase of debt. Whatever other debts might have been discharged during the same period were paid out of the proceeds of other loans; for the Committee would see that in the statement he had produced that he had accounted for the *whole* of the moneys paid into the Treasury other than what arose from loans. All other expenditures whatever, beyond that amount, must have proceeded from loans, and the deficiency in those moneys to meet the current expenditure was also supplied by loans, and was an increase of debt.

But this was not all; he had credited the account for the sums (arising from the surplus of the revenue of 1790) applied to the Sinking Fund; for a sum of near one million of dollars applied to purchase the principal of the Domestic Debt of the United States. This might have been an advantageous operation; it had certainly the good effect to contribute to the raising the Public Stocks to their real value; but it must be considered that the reason which had enabled Government to apply any moneys to the purchase of the principal of the debt, which had produced a surplus of the revenue of 1790, was, that the interest on the Continental Debt was not paid till 1791. In the year 1790, whilst they were diminishing the principal of the debt, by purchases of about one million of dollars in specie; the interest on the principal of the Domestic Continental Debt, amounting for one year to one million eight hundred thousand dollars, did accrue, remained unpaid, was funded, and made a clear addition to the debt of three per cent. stock to that amount.

The Assumed Debt afforded another item. He was not going at present to calculate the effect of that measure on the settlement of the accounts of the individual States; but merely supposing that debt to be a debt of the Union, to show its increase under the present Government. Government did not begin to pay its interest till 1792. It was difficult to determine what the interest for the two preceding years should be set down at, owing to the original principal and interest being blended in funding. He calculated the interest on two-thirds of its nominal amount at nineteen millions; he called the two-thirds twelve millions.

Interest on the assumed debt in 1790 and 1791, not paid but funded - \$1,440,000
 Part 3 part 6 per cent. and part deferred stock, which, added to the \$1,800,000 last mentioned, form a total of - 3,240,000
 Addition to the debt from the non-payment of interest in 1790 and 1791.

He had not, he said, before him a correct state-

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ment of the interest of the Foreign Debt for the year 1790, which was paid out of the proceeds of Foreign Loans, and not out of our domestic resources. He would estimate it at \$500,000.

RECAPITULATION.

Excess of expenditure over receipts on the 31st December, 1794, after deducting moneys applied to redemption of Public Debt -	\$1,850,000
Excess of expenditure for the year 1795 estimated at -	1,500,000
One year's interest on principal of Funded Domestic Debt, for the year 1790, about \$1,800,000 three per cent. stock created, valued at -	900,000
Two years' interest (1790 and 1791) on principal of Funded Assumed Debt, estimating said principal at \$12,000,000, will be \$1,440,000, of which 1-3 is three per cent., 4-9 six per cent., and 2-9 deferred stock, may be valued at -	1,050,000
One year's interest (1790) on Foreign Debt, estimated at -	500,000
	<u>5,800,000</u>

Which sum, as he meant only to give a rough sketch, and as he had neglected sundries, (such as the proceeds of the interest of the Sinking Fund,) he would call only five millions of dollars.

Against this increase of debt, he remarked, that the amount of the bonds due at the custom-houses was set off, the amount was stated by Mr. SEDGWICK at \$4,500,000. But, he observed, this sum was not actually due, but to become due to the United States. Impost is a tax on consumption; upon that principle it is, that the merchant, when he lands his goods, only bonds the duties, which are collected from the individual consumers when they purchase the article, and repaid by the merchant after a lapse of time deemed sufficient for him to have received them from the consumer; those bonds only secure the collection of the duties when they become due. A clear proof that the amount of these bonds could not be set off against the amount of anticipations was, that it could not be applied to those anticipations. If it could be applied so, why was the proposal made to fund them instead of paying them? But the fact was, that those bonds constituted not the actual revenue of the year on which they were given, but the actual revenue of the year on which they were paid. The bonds outstanding on the 1st of January, 1796, constituted in part the revenues of the years 1796 and 1797, would be barely sufficient, and were altogether wanting to discharge the current expenditures of those years; and as they were no part of the receipt or actual revenues of the year 1795, and those preceding, as they could not be applied to discharge any part of the expenditures of those years, or of the debt contracted to defray those expenditures, they could not be subtracted from them or be set off against such debt.

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On the other part of Mr. SEDGWICK's statement, he remarked, that the gentleman had first stated ten millions of dollars in the lump, as extraordinary expenditure, he [Mr. G.] had given the Committee an account of all the expenditures, and they might judge of what were extraordinary and what ordinary. He had not himself made any such distinction, and had thought it sufficient to distinguish the expenditure of moneys applied to pay the principal of a debt from all the others. It was, to be sure, a most extraordinary method of proving that a Public Debt was decreasing, by stating that a part of the moneys expended were spent for extraordinary purposes and ought to be credited to Government, instead of constituting an article of expenditure. The other differences between his and that gentleman's statement arose, 1st. From that gentleman having stated the nominal amount of the debt purchased, although a proportion was three per cent. and Deferred Stock; whilst he had stated the amount of moneys applied to purchase the same. 2dly. From Mr. SEDGWICK having credited Government for all the purchases of Public Debt, and payment of instalments to the Bank, (for Bank stock,) which had been made with moneys borrowed in Holland, without charging them for the moneys thus borrowed. 3dly. From his stating the bonds outstanding, and which would become due during the present and ensuing year as moneys in hand. If from the total amount credited by that gentleman to Government, viz: \$10,100,000, were deducted the following sums, viz:

Extraordinary expenses -	\$10,000,000
Out-standing bonds -	4,500,000
Paid to the Bank (out of the proceeds of Foreign Loans) -	600,000
Purchase of public stock out of proceeds of Foreign Loans (and excess of nominal beyond real value) -	1,550,000

Amounting, altogether, to - - \$16,650,000

Those credits would be reduced to the sum of - - - 3,450,000

which sum being subtracted from the Domestic Loans, amounting to \$6,200,000, as stated by that gentleman, left, according to his own account, a deficiency of \$2,750,000, which was the same amount he [Mr. G.] had stated as the excess of expenditures beyond the receipts on the 1st of January, 1796. On all the facts, therefore, they were agreed, and as to matters of opinion, the Committee might decide who were in the right. The facts agreed on were, that the excess of expenditures over the receipts amounted to about \$2,800,000; that the interest had accrued unpaid during the year 1790 on the whole, and during the year 1791 on a part of the Domestic Debt, and had produced an increase of that debt; and that there were bonds outstanding to an amount of \$4,500,000. Whether the debt was increased or

not; whether those bonds would be set off against the increase of that debt might be a matter of opinion; and, leaving that question aside, the fact was not less true that there was a debt to be provided for (and it was the object of the bill to provide for it,) to the payment of which these bonds could not be applied.

He had already stated that the plan proposed by filling the blank with five millions of dollars, was to postpone the payment of the anticipations for twenty-three years; that his plan was to pay them within a short time, at least not to put it out of the power of the United States to do it whenever they were able. But it was said there was no probability of their being in that situation for a long time, and, therefore, that no inconvenience would arise from the irredeemability which was to be annexed to the new stock; and the report of the Committee of Ways and Means had been mentioned in support of that opinion. He would call the attention of the House to that report, in order to show that his own views were perfectly consonant to that report. The Committee of Ways and Means state, "That, in order to discharge the anticipations, Domestic Loans and Foreign Debt, it will be necessary either to provide further revenues or obtain new loans; *but that, so far as relates to the additional expenditure of \$1,146,870 84, which will be required after the year 1800, to discharge the annuity on the Deferred Stock, an adequate additional revenue must be provided after that year. That, if that additional revenue (which it will be necessary at all events to provide after the year 1800) be raised from and after the present year, it will not only discharge the afore-said annuity, but will also reimburse \$4,800,000 in part of the anticipations, loans, and Foreign Debt, before the year 1801, and the whole of the Domestic Loans and anticipations before the year 1807; leaving them a redeemed annuity of \$896,000, to be applied to the reimbursement of the Foreign Debt. That if an additional revenue of \$2,000,000 instead of \$1,200,000 be raised for a term of twelve years, it will within that time discharge, besides the annuity on the Deferred Stock, and the Domestic Loans and anticipations, the whole of the Foreign Debt and the new Domestic Debt, bearing an interest of five and a half and four and a half per cent.; and that at the end of the said twelve years, the annuity redeemed by that operation (amounting to \$1,113,930) would, together with the revenues now established, be sufficient to meet all the demands of Government.*

It, therefore, appeared that it was practicable to discharge those anticipations without any inconvenience; for nothing more was requisite for that purpose than to raise from next year that additional revenue of \$1,200,000, which they must necessarily raise in the year 1801, in order to meet the demands of that year. Whether the revenue would be increased to that amount by raising new taxes, or by diminishing the expenditures, or by uniting both means, must depend on the future decisions of Congress. From the proposed reduction of the Military Establishment, which the peace

with the Indians had put within their reach, they might entertain well-grounded hopes of a proportionate reduction of expenditures; but be that as it might, his only object was, at all events, that means should be provided to meet the expenses of Government, and, by doing it in time, to prevent a future accumulation of debt, and to take effectual measures for a speedy extinguishment of the present one. It was with that view that he had entered so much at large in the history of our finances. He did not mean, in so doing, to lay any blame on the Administration. Whether they were deserving praise or otherwise was not the subject of the present discussion, and he did not mean to express at present any opinion thereon. But he wished, by stating what had taken place, and what was our present situation, to impress upon the House, so far as it was in his power to do so, the necessity of having virtue enough to discharge ourselves of the burden, and not to entail the curse of a groaning debt upon posterity. It had been asserted that we were paying off our debt very fast, in order to lull us into a belief that no harm could arise from commuting an anticipation into a Funded Debt, irredeemable for a number of years, in order to persuade us that, notwithstanding that operation, notwithstanding the accumulation of those anticipations, our situation was most brilliant and advantageous. As to himself, he could not see any benefit arising from such palpable exaggerations from so deceptive a view of the subject; and he had brought before the Committee the result, not of his own researches, but of the official statements upon their table, in order to prove the fallacy of the ideas which had so long and so often been held out on this floor and to the people at large, in order to show the true cause of those anticipations, the excess of expenditures over the receipts.

He had no desire to examine what was the object of the gentleman who differed with him in opinion on this question; but certain he was, that the effect of their plan, if adopted, would be to perpetuate the evils which had already taken place, and to lay the foundation for a further increase of the Public Debt. The moment the principle was adopted, first to anticipate upon the revenue, to spend more than we received; and then, when those anticipations began to press upon the Government and upon the lenders to fund them, to render them irredeemable, to provide for the payment of interest only, and not of the principal; the method would appear so easy that it would undoubtedly be continued. We would anticipate again, and two or three years hence fund the amount of anticipations, in order to be able to make new ones. The increase of taxes would be so small that the people would not be alarmed, and thus we would be enabled to lavish the public money, without being checked by the difficulty of raising it.

If such motives could influence Congress, they would have a far more powerful effect on the mind of the man who might be at the head of the finances of this country. Whoever that man was, he would be desirous of having the command of

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large sums of money, and of increasing taxes as little as possible. The first would enable him to satisfy all the demands against Government, to spread abundance through every department; it would save him the irksome task of refusing money, of enforcing a strict and unpleasing economy; it would acquire him the reputation of supporting in its purity public credit and public honor; whilst a careful attention not to increase the public burdens would preserve his popularity and his power. This naturally led to the system of borrowing, of spending the principal and of paying only the interest. Such had been forever the conduct of every financial Administration, in every country where the system had once been introduced. To fund now and then a floating debt, navy bills, or any other description of anticipations, was the usual practice in England. The consequences to that country, the enormous accumulation of debt which had taken place there, required no comment. With the example of that nation, with the still more striking example of France, where accumulated anticipations, after they had so far exhausted their credit as not to be able even to fund, had first stopped, and finally overset Government itself, he thought America might well pause before they gave sanction to the fatal principle, before they adopted the reprobated mode of exceeding their income, and of supplying the deficiency by creating an irredeemable stock.

The situation of the gentleman now at the head of the department was doubtless delicate and unpleasant; it was the more so when compared with that of his predecessor. Both indeed had had the same power to borrow money when necessary; but that power which was efficient in the hands of the late Secretary, and liberally enough used by him, was become useless at present. At home the anticipations and Domestic Loans had grown up till the Bank could lend no more, and in Europe the circumstances of the war had put a stop to Dutch Loans. He wished the present Secretary to be extricated from his present difficulty; nothing could be more painful than to be at the head of that department with an empty Treasury, a revenue inadequate to the expenses, and no means to borrow. He therefore wished to provide for the exigencies of the present year by funding the \$1,200,000, and for the remainder of the demands against Government by increasing the revenue. Nor was he surprised that the Secretary, doubting whether Congress would adopt that mode, had suggested the plan now under consideration.

The object of that plan would appear still more evident from a view of the manner in which it originated. He had shown, from the first report of the Secretary to the House, that, at that time, he contemplated, or at least had presented to Congress, only a continuation of the \$3,800,000 anticipations. It appears, however, that he had made an application to the Bank, in order to know whether he could obtain farther Loans. It was, in answer to that demand, that the Bank had declared that they had lent as much and more than

they could conveniently, that they wished the amount of their advances to be diminished, and, at all events, they could not lend any more, unless the former Loans were discharged. The answer of the Bank he had had a few minutes, although it was not officially communicated to the Committee of Ways and Means; and as it seems it was in the possession of the gentleman of Massachusetts [Mr. SEDGWICK] he might read it to the House if not properly stated. The Secretary had, in consequence of that answer, suggested the plan, now under consideration, to the Committee of Ways and Means in the latter end of December. Mr. G. said he entered into that detail in answer to some observations of Mr. SEDGWICK; but he meant only to remark, that, on the part both of the Secretary and of the Bank, the principal object was to enable that institution to lend again, and Government to make new anticipations and to obtain new Loans.

He thought it, therefore, not justifiable by any official information they had to insist as much as some gentlemen had done that the necessities of the Bank had compelled them to apply for the whole of the Debt due to them; and that it was wholly for the purpose of discharging that Debt, and because we were obliged to do it that the plan of funding the \$5,000,000 was insisted upon.

That the anticipations had grown up to an amount equally burdensome to Government and to the Bank he was well aware of; and he knew that it was necessary to take effectual measures to discharge them in a gradual way. But, as it was impossible to pay the whole amount during the present year without recurring to new Loans, as it was asserted that money could be obtained only by creating an irredeemable stock, and as the Bank had made no demand of the whole to the Legislature, he was against filling the blank with the five millions of dollars. Indeed he would not think it to be a friendly act in the Bank to insist upon the whole at once.

The Bank were in the habit of lending money to Government, and it had always been understood that they would continue their Loans to a certain amount, and not withdraw abruptly and unexpectedly the assistance they had heretofore given. He felt that that institution, not satisfied with lending to the United States those sums which Government naturally expected from them, on account of their relative situation, had gone much further, had laid themselves under great inconvenience; for, as their power to lend was limited, they could not lend too much to Government without being obliged to curtail the discounts of their customers; which lost to the Bank those customers and their deposits, and of course narrowed their powers of discounting and their profits; yet, to a certain amount, the United States had a right to expect the assistance of the Bank. A Bank was enabled to discount, in other words to lend money, in proportion to its capital, to the amount of deposits made there, and to the extent of its notes in circulation. The United States held one-fifth of that capital, they were depositors to an amount nearly equal to one-half of

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the original cash capital of the Bank, (for their deposit consisted of the balance in the Treasury amounting on an average to \$700,000, and of the moneys paid by the Collectors before they had passed the Treasury, which probably exceeded \$300,000) and it was well known that by making all duties payable in notes of the Bank of the United States, those notes had acquired a far more extensive circulation than those of any other Bank. He therefore concluded, that grateful as we might be to that institution for past service, we had a just right to expect Loans to a certain amount, and those not to be discounted at once. If, however, he was mistaken in his opinion that the Bank did not want to be repaid the whole of their advances, let the information be communicated in an official manner, and he would withdraw his opposition.

But even then he could not help lamenting that the Bank should have chosen such a time as this to make their demand. At a time when the European war prevented the possibility of borrowing there; when the effects of that war, by giving so much more profitable employment to capital, were felt in the same manner here; at a time when money could not be obtained without an extravagant premium, or a higher rate of interest, it was peculiarly disadvantageous to change our anticipations into a Funded Debt to borrow money under the existing circumstances; for we were obliged, in order to obtain money, to affix an irredeemable quality to the stock; (and it was not certain, whether, even then, money could be got on those terms) from whence two evils flowed; 1st. The perpetuating the Debt for the period of time during which we declared it irredeemable; and, 2d. The obligation to pay the present high interest during the whole of that time; for what rendered an irredeemable stock more valuable to the purchaser was the very cause which made it disadvantageous to us, to wit: that we could not avail ourselves of any event which would bring the rate of interest to its former average. Thus, although peace might take place in one year, and money could then be got much cheaper, we could not, if the present plan was adopted, draw any advantage from that event, but must continue for the whole twenty-three years to pay six per cent. on the proposed stock.

Nor was this evil the worst to be apprehended. In his opinion, to postpone the payment of a Debt for twenty-three years, was not only a declaration that we meant that posterity, and not ourselves, should pay it, but in fact it was tantamount to a postponement forever, to a perpetuating of the Debt.

In examining the causes of the anticipations and Domestic Loans which had thus accumulated, three events were looked upon as being out of the common course, and had given rise to an extraordinary expenditure, viz: the Indian war, the Western insurrection, and the Treaty with Algiers. Now he would ask, how they could answer for future events? and whether it was not within the ordinary course of things, that within every period of six or eight years, circumstances

should take place which would cause expenditure to an equal amount? Indeed, considering their situation, an Indian war was more or less their natural state, and the expense of treating and of trading with them must at all events be incurred, and would prove considerable. He wished the peace with Algiers might be permanent; yet they had no security that that object would not require additional expenses. The Western insurrection was the only object of expenditure which they had well-grounded hopes would never recur, and which they might consider as extraordinary. But, if they had not that object to provide for, they would have some other. Fortifications, Naval Armament, unforeseen events of every description, would, in future, require upon an average an expense equal to what was called extraordinary expenditure. It was enough for posterity to provide for their own time; it was our duty to discharge ourselves the Debt we had incurred, and if it was found that after six years of peace and unexampled prosperity we were not able to discharge those expenses which had naturally arisen from the course of events during that prosperous period; if we declared that we meant to postpone their payment, till the present generation was over, we might well expect that the principle thus adopted would be cherished, that succeeding Legislatures and Administrations would follow our steps, and that we were laying the foundation of that national curse—a growing and perpetual Debt.

Mr. HILLHOUSE said, the time was so far elapsed that he should only ask the attention of the committee to a few general remarks in answer to the gentleman from Pennsylvania [Mr. GALLATIN.] It could not be expected he should then go into the consideration of the minute and lengthy statement of the gentleman. Two things had been taken for granted by him, which are not well-founded, and which being refuted, would upset his whole system, which are, that the United States are not bound to pay the instalments due to the Bank at this time, but might postpone them, and apply the money which shall come into the Treasury during the present year to discharge the expenses of the Government, and that the revenues of each year are only the amount of the moneys actually received into the Treasury in the course of the year. If the gentleman had examined the laws under which these anticipations were made, by way of Loan from the Bank, he would have found that all the moneys that shall come into the Treasury for duties on goods imported, in the years of 1794 and 1795, are by law absolutely appropriated to the discharge of those Loans, and until they are discharged no part of it can be made use of for any other purpose. It is the Government, therefore, that wants the accommodation and not the Bank. If these anticipations are not funded, resort must be had to temporary Loans to the same amount, and so the same operation will be necessary every year, unless a sufficient revenue can be raised in one year to discharge the current expenses of two, which, in the present state of our Foreign Debt, instalments of which are annually falling due, there is little pros-

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pect of our being able to do. The necessity of those anticipations cannot cast any imputation on the administration of the Government; it arose from the necessity of the case. There was no revenue arising to this Government at the time of its formation: laws were to be made and put in operation, which could not be done so as to bring much money into the Treasury short of one year; during that period the expenses of Government were going on, and could not be paid but by Loan in anticipation of the revenue. It was also found necessary to give a credit to the merchants who were to pay the duties; but, as the expenses of each year were nearly equal to the whole amount of the impost on the goods imported in one year, and the other revenues of the United States, this credit could not be given without the aid of these temporary Loans of the Bank. It has also been found necessary from time to time, to extend the term of credit which is now in some cases eighteen months, which has also increased the amount of the anticipations, and although the amount is almost four millions of dollars, it by no means follows that our expenses exceed our income; for it appears by the report of the Secretary of the Treasury, that there is a much larger sum due to the United States on Custom-house Bonds. The gentleman [Mr. GALLATIN] admits that over and above all the money that will come into the Treasury during the present year, which the Secretary of the Treasury reports would be sufficient to discharge the current expenses of the Government, \$1,200,000 will be wanted to discharge an instalment of our Foreign Debt, and instalments at the Banks for the Algerine Loan, &c.; but it ought to be remembered, that the report of the Secretary of the Treasury is founded upon the idea of funding those anticipations, and thereby liberating all the money that shall come into the Treasury during the year; but, if that is not done, he wished to know from what quarter money was to be obtained for the current expenses of the year.

It has been said the annual revenues of the United States are only to be estimated to amount to the money actually received into the Treasury. This did not correspond with his understanding of the matter. He had always supposed the revenue of each year was to the amount of the duties secured at the Custom-house, for goods imported within the year, and it might as well be said that an individual who rents a house for \$1,000, and takes a bond payable in eighteen months, has no income or rent for that year, because the payment is postponed. The same gentleman [Mr. GALLATIN] had stated that since the establishment of this Government the expenditure had exceeded the revenue, so that upon the whole we had, instead of lessening our Debt, in fact increased it at \$4,500,000. This was an idea, Mr. H. said, wholly different from what he had ever conceived to have been the case. He had supposed that notwithstanding the extraordinary expense of the Algerine Loan, Indian wars, insurrections, &c., we had, in fact, paid a part of our Debt, and he thought no other document need be resorted to to prove it, but the report of the Secre-

tary of the Treasury in his hand, made the present session, which states that the nett amount of revenue from imports and tonnage, fines and forfeitures, exclusive of the expense of collection and other charges, was \$1,615,574 paid for drawbacks from the 1st of January, 1794, to the 1st of January, 1795, amounted to \$6,717,510, and that there was due, on hand, and in the hands of Collectors, \$6,922, 631; suppose a further deduction of \$1,500,000 is made for drawbacks on that year, yet there will still remain a sum much more than sufficient to reimburse the \$4,500,000 which that gentleman says has been added to our Debt. There is no reason to suppose the revenue of last year will fall short of that of the preceding year. It is said, if the anticipations are funded, our Debts will be increased, it will be putting off the evil day, and this country may expect to experience all the evils which have embarrassed the European nations; but the fact is far otherwise, for if these anticipations are funded, and not a shilling of the principal of our Foreign Debt shall be paid, and provision only is made for carrying into effect the act of last Congress, which he had no doubt would be done, in 1818 we shall have paid upwards of \$30,000,000 of the principal of our present Debt, which does, and will bear an interest of six per cent., and in 1824, we shall have paid the whole of our present six per cent. and Deferred Debt, amounting to \$43,872,790, and all the interest on the remaining Domestic and Foreign Debt, a pretty large proportion of the Debt to be paid by the present generation, who have also borne the burden of war, which has established and secured our independence, and would leave no just cause of complaint to future generations. If the money could be raised without great inconvenience, he should be very glad to pay the whole Debt; but he had no idea of resorting to direct, or any other taxes, that would be very burdensome to the people, for the sake of paying it off a few years sooner.

The gentleman [Mr. GALLATIN] says, that if 2,000,000 dollars per annum, additional revenue, was to be raised, that, in a certain number of years, it would discharge the anticipation, and the whole Foreign Debt; that amounts only to saying, if we had the money to pay the Debt, we should not have to pay the interest, for the sum proposed to be raised, with the interest thereon, amounts to exactly the sum the gentleman says could be discharged. As more than 2,000,000 dollars of our present revenue will be liberated in the year 1818, by the discharge of the present six per cent. Debt, and as the instalments of our Foreign Debt are falling due every year, and it is possible we may be obliged to borrow, and have no other resort but to the Bank, he should be for filling up the blank with 5,000,000 dollars, and thereby enabling the Bank to lend, if the money should be wanted. This expedient will not be resorted to, unless necessary, and cannot be resorted to but with the consent of all branches of the Government.

The Committee now rose, and had leave to sit again.

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Cherokee Treaty—Execution of Treaties.

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WEDNESDAY, April 13.

The bill for regulating intercourse with the Indian tribes was read a third time, the blanks filled up, and passed.

Mr. TRACY wished to take up the amendments of the Senate authorizing the Secretary at War to place certain persons on the pension list.

Mr. CHRISTIE wished the order of the day to be postponed that the House might resolve itself into a Committee of the Whole on the state of the Union.

Mr. TRACY said he was as much in favor of going into the question of the state of the Union as the gentleman who proposed it could be; but he said the business he proposed to the consideration of the House, he believed would not occupy many minutes.

The business was therefore taken up, and the amendments agreed to.

CHEROKEE TREATY.

Mr. HARPER said, they had this morning passed a bill containing strong, but necessary measures to prevent future infractions of the Treaty lately concluded with the Cherokee Indians. In order effectually to prevent this, he believed it would be desirable to do away all cause of complaint from those persons who had claims upon the land ceded to the Indians by Treaty. For this purpose he laid the following resolutions on the table:

Resolved, That all persons now holding lands under grants from the State of North Carolina, in the territory of the United States south of the Ohio, and beyond the boundary line between the United States and the Indians, shall be entitled to receive in exchange for an equal quantity of their lands, 820 acres each in the territory of the United States Northwest of the Ohio, on their respectively settling there, and continuing to reside for the term of ———.

Resolved, That all persons holding as aforesaid shall be permitted to subscribe their lands in the Loan for the Domestic Debt of the United States at the rate of twenty-five dollars per hundred acres, and on the same terms with the present unsubscribed Debt, provided that such subscription shall not entitle any subscriber to a certificate till the whole lands so granted as aforesaid, shall have been subscribed or exchanged.

Mr. CHRISTIE renewed his motion to go into Committee of the Whole on the state of the Union.

Mr. W. SMITH was against agreeing to the motion, though he was aware of the necessity of an early attention to the subject, until the important financial business before the House was gone through. He was the more desirous of going into the business of finance from the very long representation which had been gone into by the gentleman from Pennsylvania [Mr. GALLATIN] yesterday; a representation tending to mislead the public, and which he thought it his duty flatly to contradict, and to show that his calculations, and conclusions were totally unfounded. If it was, however, determined to go into Committee on the state of the Union, he wished to be permitted to read a statement of their finances,

by which he would prove that they were now in a better state than they were in 1791 by two millions.

Mr. SMITH had not permission to read his statement; and after some observations from Messrs. HARPER, SEDGWICK, and GILBERT, against going into a state of the Union, and from Messrs. GILES, SWANWICK, and GALLATIN, in favor of it, the latter gentleman, noticing what had fallen from Mr. SMITH with respect to the financial question, saying that, as he had no other object than truth in view, he challenged discussion on the subject, at the same time expressing his confidence in the truth of his statements, the question was put and carried for going into Committee on the state of the Union.

EXECUTION OF TREATIES.

The House having resolved itself into a Committee of the Whole on the state of the Union—

Mr. SEDGWICK proposed the following resolution:

Resolved, That provision ought to be made by law for carrying into effect, with good faith, the Treaties lately concluded between the Dey and Regency of Algiers, the King of Great Britain, the King of Spain, and certain Indian tribes Northwest of the Ohio."

Several gentlemen rose together to object to this resolution. It was complained of both with respect to its matter and to the manner in which it was introduced. To its matter, as connecting all the Treaties together; to its manner, because introduced before the Chairman had read any papers relative to the subject.

Mr. GALLATIN called for the reading of the Spanish Treaty, as he hoped that would be the first determined upon, as it would be likely to meet with no opposition. He had also other reasons for wishing it; it was a Treaty in which his constituents were particularly interested; he wished it, also, that a false idea which had been industriously spread in that country might be done away, viz: "That except all the Treaties were carried into effect, no one could be put into execution;" which idea was implied in the several petitions which then lay upon the table from the Western country.

Some conversation took place on the point of order, but the Chairman, at length, having declared the resolution in order—

Mr. GILES said he thought it was right for the Committee to take up what business it chose. He would make a motion to do away this hasty proceeding. He expected some decent respect to the feelings of gentlemen in conducting this business, and not that a gentleman would have laid a proposition on the table before the Chairman had taken his seat. The motion he should make would be to postpone the present resolution for the purpose of taking up the Spanish Treaty. He was persuaded the Committee could not be forced into the business. He thought each subject proper for a separate resolution; he had no notion of legislating by the lump.

Mr. SEDGWICK observed that other gentlemen had feelings as well as the gentleman from Vir-

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ginia. He hoped the members of that House would be treated, at least for some time, as if they had equal rights. A motion was made to go into Committee on the State of the Union; they resolved themselves into a Committee; any man who first got possession of the floor had a right to make any proposition with regard to any subject before the Committee. A motion was made by him that the Committee do come to a certain resolution; that resolution was then properly before the Committee. If the gentleman from Virginia had a resolution more proper or more congenial to his feelings, he might introduce it when the Committee had disposed of the one on the table; but there it was, and he claimed the right, and this right he would exercise, of having this resolution acted upon; nor would he admit that there should be any other proposition introduced until that was disposed of.

Mr. W. LYMAN asked if this was a proceeding worthy of a Legislative body? He hoped there would be no such haste as had been shown upon this occasion. Was there to be a scramble for business? If gentlemen persisted in following the course they had taken, there was a way of disposing of the resolution. The Committee had the power to rise, and he presumed it would be in order to make a motion to postpone the present question to a certain day. He said, if the British Treaty would not bear examination, it was not to be forced upon their understandings whether or not.

Mr. WILLIAMS said, that it was unfortunate for them when they were about to discuss one of the most important questions which ever came before that House, a question, perhaps, upon which the fate of the country depended. On a subject of such importance, it became their duty to harmonize with one another, and by discussing the business coolly, determine upon the best mode of disposing of it for the good of their country. How were they to proceed in business, if so much heat was discovered? Nothing could be done. He wished coolness and good temper to be their guide. Let them go into the business with calmness and moderation, and then, he trusted, they should come out of it as they ought.

Mr. HILLHOUSE said, it appeared to him that they were contending about nothing. He would as soon have the Spanish Treaty first brought forward as any other. No man, he believed, had any objection to that Treaty, but he had objections against taking up one and leaving others. At the same time, he was willing to take up the Spanish Treaty first, as it was altogether unimportant which way it was done. It was in their power to agree to them singly, though they were united in one resolution. There would be a degree of impropriety in separating them, or in rejecting one and not the other; indeed, if one was rejected, he should think himself justified in voting against the others. They were subjects which were connected together, and if no other gentleman connected them, he would; but there could not be a final determination upon the resolution, until all the subjects were discussed.

Mr. GALLATIN said, if they were in the House, instead of a Committee of the Whole, they might get rid of the motion, either by the previous question, or by postponement; in a Committee of the Whole, other rules were in force, and if a proposition was made to them, they could not refuse to debate it. There were two ways, however, of getting rid of the thing. They might give their negative to the proposition, merely because four propositions were connected together, or they might amend it by striking out three of the Treaties. Before he sat down, he meant to give reasons for adopting either of those two modes. His objections rose merely from the four Treaties being connected together. He had been a good deal surprised to hear a gentleman from Connecticut say, that the Treaties were so connected, that if one was not carried into effect, he should be justified in withholding his vote from the rest. Had the gentleman forgotten that he was in duty bound to carry every one of them into effect? That if he did not do it, it would be a breach of good faith—nay, of the Constitution? That he had no discretion on the subject? But was impelled by moral obligation to execute any Treaty whatever? Mr. G. was not, therefore, at all alarmed at these threats, for he knew, that whatever gentlemen's opinions were, they could not, consistently with their principles, refuse to give their sanction to all and every of the Treaties before them. But leaving altogether what may be the opinion of any gentleman in the House, let them see what was the opinion of the House itself. It was that, whenever a Treaty contained Legislative provisions, its execution depended on laws to be passed by Congress, and that, in all such cases, it was the Constitutional right and duty of the House to deliberate on the expediency of carrying the Treaty into effect.

This being the solemn resolution of that House, it was contrary to that idea to say, they would blend all the Treaties together. That House would carry into effect the Treaty with Great Britain, that with Spain, or either of them, or none of them, as it should appear expedient or inexpedient. The resolution proposed by the gentleman from Massachusetts was perfectly consistent with his own opinion, for believing the House under an obligation to carry into effect all the Treaties, he had put them all in one resolution. If there were twenty instead of four, upon his principles, they might all be placed in one resolution; but the House had solemnly declared a different opinion, viz.: that it was the right of this House to deliberate on Treaties; whence it follows, that each must be deliberated upon separately. But, according to the ideas of the gentleman from Connecticut, instead of making the Treaties before them matters of deliberation, they were to become matters of barter. He hoped the House would spurn at such doctrine, and that they should debate each Treaty by itself, and determine upon them as they shall judge proper. He would propose an amendment, which, if in order, he should move; if not, the Chairman would inform him. It was as follows:

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"Resolved, That, in the opinion of this Committee, it is expedient to pass the laws necessary for carrying the Treaty with Spain into effect."

Some conversation took place with respect to order, without any determination upon it.

Mr. MACON said, there would be an awkward circumstance arise from all the Treaties being in one resolution. They would be debated upon together, and a member would always be in order when speaking to any one of them, for that they should never be able to get through the business.

Mr. SEDGWICK said, he had no intention of cramping the Committee in their discussion, but he did think that all the Treaties were part of the same subject, and he did not see why provision was not necessary for the whole. He did not think there was any inconsistency in the opinion of the gentleman from Connecticut. If, said Mr. S., they were asked to provide for particular officers in the army, would they consider themselves under obligation to provide for them separately? No; they would refuse to vote for them individually, nor could they be charged with impropriety if they withheld their assent until the whole army was provided for by appropriations. The whole of the Treaties were one great complex subject, and a separation of them, so as finally to deny a provision as to the one which was concerted, would be the ruin of the country. Because he conceived the public faith pledged, would it be said that there was necessity for his voting for any bill, however in itself objectionable, which could be brought before him? No such thing. To carry one of the Treaties into effect, without the other, would be sacrificing the interests of one part of the country to those of another. He was therefore for keeping them together. He would never consent to consider one separately. He had expressed himself, he said, with some warmth upon the subject, because he thought gentlemen were going farther than they ought. He believed the Treaties had not been read in the Committee. He hoped they would be read.

Mr. GILES objected to any Treaty being read at present, unless it was that with Spain.

Mr. HARTLEY allowed that the gentleman from Pennsylvania [Mr. GALLATIN] was right in wishing to take up the Spanish Treaty, as one in which his constituents were most concerned. He thought it of most consequence to take up the British Treaty. By refusing to take up this Treaty, gentlemen would be responsible for the consequences which might follow to their country. The first of June, he said, was fast approaching. It would be expected that they should do something towards completing the business. The inhabitants in the large seaports were deeply interested in the Treaty with Britain, then why should it be deferred because the people on the Ohio wished the Spanish Treaty to be attended to? It was thought they were going to consider this Treaty several days ago; but if they did not now proceed to consider it, he should think they did not mean to carry it into effect.

Mr. ISAAC SMITH wished they might get into some kind of order. He thought the British

Treaty was most important. If they were to separate them, he should, therefore, wish that to be taken up.

Some observations were made with respect to order, and a reading of papers was called for.

Mr. JEREMIAH SMITH said, the object before them was a general proposition of four members. The general proposition was, that laws should be provided for carrying into effect the Treaties lately concluded with the Dey and Regency of Algiers, the King of Great Britain, the King of Spain, and certain Indian tribes. Now certain papers are laid on the table; if they meant the proposition before them as general, or otherwise, the papers ought certainly to be read. He did not differ from gentleman in opinion, that the subject ought to be divided; he believed a division would be proper. He conceived that where there were four Treaties, there might be cases in which he might vote for three of them, and not for a fourth, or for a less number. There would, therefore, certainly be a propriety in considering the subjects separately. But there was no difficulty in doing this: there was a rule of the House which provided, that any member may call for the division of a question, and when it is so called for, the question, if it will admit of it, must be divided. He should vote for carrying into effect all the Treaties; but if any gentleman was of opinion that some of the Treaties were binding and others not binding, it would be proper to call for a division of the question. He thought the Treaty with Great Britain equally binding with the rest. Those who thought differently would wish the question to be divided. If the resolution was not divided, the Treaty with Algiers would be first in order, and that would first be concluded upon; then that with Great Britain, and so on. This, he believed, the most regular mode to be pursued, that the sense of the House might be taken upon each proposition, whilst the resolution itself remained undivided.

Mr. GILES said, the gentleman last up had pointed out a mode which would suit himself, but which would not suit others. For his own part, he believed it perfectly in order to negative the whole proposition, and replace it with another. They had no table in this Committee, they made no minutes; they might, therefore, negative it in point of form, and introduce another. He had no doubt of the propriety of such a proceeding, since that Committee was meant to debate on certain propositions, and these were to be carried into law. He would remark, that the amendment proposed by the gentleman from Pennsylvania, [Mr. GALLATIN,] was a substitute for the present, and was worked according to the doctrine supported by the majority on a late question, whereas the present resolution is adapted to the opinions of the minority upon that occasion. He hoped, therefore, the Committee would negative this proposition, and bring forward another. The gentleman last up had called the several Treaties different members of the same body, but he believed each to be a distinct and independent body.

Mr. SEDGWICK said, he would vary his motion,

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and call for the reading of papers respecting the Treaty with the Dey of Algiers. But he would ask gentlemen, if they were determined to bring forward a separate resolution, if they did not see that he or any other member could move to add the other Treaties to it, and to bring it into its present form? He did not know whence arose all this violence—all this squeamishness. Gentlemen, said he, suppose they are a majority; they bring forward propositions, and endeavor to suppress any but such as are consonant to their own opinions. Whenever they brought forward a proposition for a division of a subject which he thought in its nature connected, he should move to amend it. They had the same rights in this case, and they might amend his motion in any manner which should render it conformable to the opinion of the majority.

Mr. VENABLE had no objection to taking up any of the Treaties. He did not know what the gentleman last up meant by violence. He exhibited as much violence as any member in that house. He saw no occasion for unnecessary warmth. The subjects before them would be determined by a majority, and he doubted not that determination would be for the good of the United States. If the House took up the Treaty with Algiers, he doubted not it would be immediately agreed to. He wondered how the gentleman could conceive they could go into all the Treaties, containing twenty or thirty articles each. Would not such a medley of matter occasion much confusion in their discussions? It certainly would. It was in vain, he said, to attempt to force the Committee upon discussions which they did not wish to enter upon. It could not be done. Why then so strenuous, why so warm, after having brought forward an improper proposition? He hoped the Committee would proceed with moderation: for his part, he trusted he should so far remain master of himself as to preserve an equanimity of temper on this and every other discussion in that House.

Mr. W. LYMAN objected to the Algerine Treaty being taken up at present. He wished to see the Treaties brought forward separately, and would not consent to take them up in any other way. He should, therefore, move that the Committee rise, in order to dispose of the gentleman's resolution, and bring forward each subject distinctly.

Mr. BOURNE said, the gentleman last up, had suggested the propriety of the Committee rising. He thought it was improper that the Committee should rise. They were upon a subject of the first importance of any which perhaps was ever discussed in that House. That they should commence the discussion with so much heat was unfortunate. He should wish, if it was for no other purpose than to give gentlemen time to collect themselves and lay aside their acrimony, that the papers which had been called for might be read. The papers appertaining to any of the Treaties would occupy all the time they had now left before the usual hour of adjournment.

Mr. WILLIAMS thought the observations of the

gentleman who just sat down perfectly seasonable. He wished the Treaties might be read in the order in which they stood in the resolution. He saw no reason why they should take up the Spanish Treaty first. They came there to legislate for the whole and not a part of the Union. Why not, then, open the river St. Lawrence as well as the river Mississippi?

Mr. PAGE rose to remark upon what fell from the gentleman from Rhode Island. He recommended the reading of the Algerine Treaty, in order to cool the heat of the Committee. He would remark that gentlemen seemed warm, though he did not believe they were so. He hoped when gentlemen talked so much of candor, that they would come into those measures in which they were all agreed. When the subject of the British Treaty came up, he assured the gentleman from Massachusetts he would listen with the greatest attention for any length of time, whilst he held up to view the merits of that Treaty; though, as time was becoming very precious, he believed it would not be well to employ much of it in that way, as he feared it would be all in vain.

Mr. MURRAY said, that the question before the Committee was, whether the Algerine or the Spanish Treaty should be first considered. For his part, he wished to unite the whole of the four Treaties in one view, as they were collectively a system in which the whole Union were interested. But he cared little which was first considered if they are disunited. He said, that so very important was it, in his mind, that a decision of some sort should be immediately pronounced by the House upon the British Treaty, that he had determined not to occupy any time in adding to the number of debaters for the last ten days, on the other business of Congress, one instance excepted. He said, that, by the British Treaty, arrangements are to be made with the Governor General of Canada for the delivery of the Western posts before the 1st of June. This day is the 18th of April; and we are consuming that time, which is every minute of it pledged to great events, in frivolous and entangling preliminary questions.

The public expectation is, that on the 1st of June the posts are to be delivered. He implored gentlemen on all sides to take a question that is to settle our national faith, the interests of the Union, and the expectation of the public. Time is too precious, as that Treaty will be affected by it, to be thus wasted. Any decision will be better than a debate which may violate a Treaty in deciding its merits. The minds of members, he believed, had sufficiently viewed the subject. If there is a majority against the execution of the Treaty, it was in vain to dispute about the ceremonies of its condemnation. The Treaty ought in good faith to be executed; but, at all events, it will be most consistent with an explicit character to decide early what must be decided before the 1st of June. He would vote for every measure to come to a quick decision.

Mr. CRABB said, he should not hesitate to declare that, from present impressions, he was disposed to pass the necessary laws to carry into ef-

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fect all Treaties specified in the resolution introduced by the gentleman from Massachusetts; yet he felt it also his duty to say, that if gentlemen tenaciously insisted on the resolution as it now stood, and would not consent that the question should be divided, and if there was no rule of the House by which it could be divided, so as to take the sense of the Committee fairly on each separate and distinct Treaty, then, he said, in that case, he should be constrained to vote against the resolution, for the purpose of introducing others more proper; for he never would, on this nor any other occasion, give his sanction to so unprecedented and improper a procedure. Was it reasonable, was it decent, that the Committee of the Whole House should be called upon, and thus, pressed to vote and decide on four great important national questions, couched in one short resolution, and that resolution expressed in language by no means unexceptionable? Gentlemen have said that this (heterogeneous) mode of procedure was right, as the Treaties must all be considered as one connected subject, and must stand or fall all together. He wished to know how long this discovery had been made, and from whence arose this strange opinion? Suppose, he said, the President and Senate had rejected the British Treaty, would it have followed that they must have rejected all the rest?

Again: suppose they had not approved of the Spanish Treaty after ratifying the British Treaty, would it follow they could not have rejected it because they had ratified the other? Where was this link of connexion, then? This was new doctrine, indeed, such as he trusted would never be admissible within these walls. Such an improper, irregular introduction of business of the utmost importance, he hoped would never be countenanced or admitted. Decency, order, and propriety forbid it.

Mr. GILES said, what gave rise to the present discussion was, whether the Treaty with Spain should be first taken up; yet it was extraordinary, though gentlemen were complaining of a want of time, what was said did not relate to that point.

Mr. GALLATIN said, the question was, whether the Treaty with Algiers should be read. He should object to it for two reasons: First, they were not in a situation to enable them to determine upon it, the papers communicated by the President relative to it being confidential, and referred to a select committee, who had not yet made a report. They had only the amount of the gross sum of money required. When the committee had reported it would be time enough to take up that subject. But he objected to reading any papers in this stage of the business, because he did not think they could elucidate the subject of debate. The subject immediately before them was not whether the Treaty with Algiers, or any other Treaty, should be carried into effect, but whether they would consider the four Treaties together, or each of them by itself. The papers called for could throw no light on the decision of that question. He hoped, therefore, the motion for papers would be withdrawn or nega-

tived; and he would then move to strike out the words "several Treaties," in order to replace it with the word "Treaty." When that question was decided, they could say which of the Treaties should be taken up first.

Mr. HILLHOUSE hoped the Committee would rise. He had no objection to taking up the Spanish Treaty first. He was willing to have the Treaties in separate resolutions; but he hoped gentlemen would consent to go through all the Treaties before the sense of the Committee was taken on the resolution. If the Spanish Treaty was first considered, he should vote for it; except he saw something different respecting the British Treaty from what he then saw, he should vote for it; but if any one of them was struck out, or refused to be carried into effect, he should vote against the others. And he hoped he should be able to make his conduct appear consistent in the course of the business. He hoped they should treat the subject with candor, and in a way in which every man might have an opportunity of exercising his opinion—as a majority in that House had never yet prevented a minority from being heard in defence of their sentiments. If it were the opinion of the majority of that House that three of the Treaties should be rejected, he would vote against the fourth. He hoped the Committee would rise, and would not object to taking up the Spanish Treaty first in order to-morrow.

The question for the Committee's rising was taken, when there appeared for it 44, against it 46.

Mr. GILES said, he should move to strike out all the words after "Resolve," that the resolution might be filled up with other words. As gentlemen had thought proper to anticipate their votes upon the British Treaty, he would say, that he should vote against it. He hoped the Committee would adopt the proposition he had made, in order to have the resolution differently worded.

Mr. SEDGWICK said, he had introduced the resolution in the form it bore, because he thought it best. He had wished the Committee would have risen. He had wished it because he did not wish gentlemen to be under any kind of trammels in the business, to be under any obligations to do what they wished not to do. He had connected the subject, because he thought it proper they should be connected. If gentlemen thought it best to separate them, he was sensible he could not prevent a separation. He should be extremely sorry if a gentleman should vote contrary to his opinion with respect to the British Treaty. He should be sorry if the gentleman from Maryland [Mr. CRABB] should be obliged to vote contrary to his opinion by such a connexion. He hoped he would not.

Mr. MADISON wished the resolution might be transposed, by putting the Treaty which was mentioned last first, and vice versa.

Mr. GALLATIN urged his motion.

Mr. WILLIAMS hoped the Committee would rise.

Mr. HARRISON said he was not in a passion,

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and he hoped they should not rise, and by that act declare they were so angry that they could not act at all.

Mr. THATCHER agreed that the gentleman last up was not in a passion; but he was of opinion, with other gentlemen, that there was a great deal of heat in the Committee, but he did not, like them, lament it. He was, on the contrary, glad to see it, because it was a proof that it existed, and there was now a chance of its evaporating. It seemed as if gentlemen had not the capacity of reasoning. The gentleman who rose last was perfectly cool, and he hoped he would continue so; but still he did not attempt to reason—he only told them he was not in a passion. He was apprehensive that whilst the Treaty with Great Britain was before them they should not grow much cooler; for, as it had been declared that the whole country was in a flame about it, some of the heat, it must be expected, would reach that House. The winds had long been chained in the caves of Æolus, but they had now broken loose, and, if they sat long enough, he hoped they would, in some degree, pass over them.

Mr. SWANWICK hoped the Committee would not rise; it would be an unnecessary delay in the present important business. He had no idea of putting off till to-morrow what they had it in their power to do to-day. Why, then, postpone this vote? They must come to the same question to-morrow, and they must take it up then. Why, then, not determine it at that time?

Mr. ISAAC SMITH wished the Committee to rise, as it was the usual hour of adjournment.

Mr. COOPER hoped the Committee would rise, as he meant to offer his sentiments upon the occasion, and there was no time for it then.

Mr. HOLLAND hoped the Committee would not.

Mr. LIVINGSTON said, it would be a disgraceful circumstance to the Committee that they should have sat so long without doing any thing, and at length, by voting the Committee to rise, declare that they were incapable of doing any thing. His colleague [Mr. COOPER] had given as a reason why the Committee should rise, that he wished to declare his sentiments on the occasion. He doubted not if that gentleman delivered his sentiments with that ability, politeness, and delicacy of manner with which he in general expresses himself, he would be duly attended to; but if he did it in the way in which he sometimes delivered himself, he might as well be silent.

Mr. COOPER observed, after Mr. LIVINGSTON, that let him deliver his sentiments in which way he would, he had no doubt that it would be as satisfactory to his constituents as the conduct of that gentleman was to his. He felt himself much obliged to his colleague for the polite request he had made for the Committee to rise; but he found that obligation removed by the close of his speech. This, said Mr. C., is like the usual consistency of that gentleman. As to the House being in great heat, he saw it with as much pain as that gentleman did, and wished he could say one of his colleagues had not been instrumental in producing the difficulty.

Mr. BOURNE did not think that the Committee's rising would declare their unfitness for business, as it was the usual time of adjournment.

The vote was again taken for the Committee's rising, and negatived by 47 to 45.

Mr. GALLATIN's motion was then put and carried.

A motion for the Committee's rising, was again lost by 47 to 46.

Mr. BLOUNT moved to strike out "the King of Great Britain and the Dey of Algiers" from the resolution.

Mr. SEDGWICK observed, that gentlemen wished to take up the Spanish Treaty first. He would wish to know why that Treaty should be taken up in preference to the other? Gentlemen knew that if they acted at all upon the British Treaty they must do it in six weeks; but they did not know that the Spanish Treaty was ratified. It was said that that Treaty would be favorable to persons in the Western country; but he did not know why any particular part of the Union should be attended to in preference to the other. It was not decided whether the British Treaty should be carried into effect or not, and he would remind gentlemen that there was now only just time enough for the necessary preparations before the 1st of June. He hoped gentlemen would not, therefore, unnecessarily protract the business. He wished to know what urgency required the Spanish Treaty to be taken up at a time when the country was agitated from one end to the other on account of the fate of the British Treaty? If there was no good reason for it he hoped they would not persist in it.

Mr. VENABLE called for the reading of the President's Message accompanying the Spanish Treaty. It was read.

Mr. WILLIAMS said, it appeared to him that they were about to legislate for a part and not the whole of the Union, by taking up the Spanish Treaty, which had neither a claim upon them in point of priority nor of necessity. He wished the British Treaty to be taken up. If the interests of particular parts of the Union were to be attended to, he thought the State which he had the honor to represent had a greater claim than any other to their attention, as, if it was not now, it would soon be, one of the first States in the Union. Let them view the city of New York, and consider the revenues which it paid to Government. That city was peculiarly interested in the British Treaty; and he called upon his colleagues to recollect the interest of their State. [Mr. W. here took notice of a smile which he observed upon the countenance of a gentleman near him, which he said he despised.] He concluded by wishing all party-spirit to be buried, and that they might proceed with business.

Mr. CRABB moved an amendment, to strike out the words, "Spanish Treaty," and leave the resolution blank.

Mr. HOLLAND said, gentlemen spoke as if they supposed, because the Spanish Treaty was to be first taken up, that all the rest was to be neglected. Gentlemen had said if one Treaty was not

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carried they would vote against the whole. This might operate as a reason for taking up the Spanish Treaty, as it was certainly the best. But it was from much better ground. The President had required an early attention to the Spanish Treaty, which was not the case with any of the rest. Another reason was, because he believed there would be no difference of opinion on that Treaty, except they were like children, and refused to have one good thing because they could not have all they wanted.

Mr. GILBERT seconded the motion to strike out the words "Spanish Treaty."

The Committee now rose, and the House adjourned.

THURSDAY, April 14.

Mr. ISRAEL SMITH called up a resolution, laid upon the table some time ago, respecting an alteration in holding the District Courts of Vermont.

Mr. BOURNE wished the District Courts of Rhode Island also to be added.

They were added accordingly. The House agreed to the resolution, and it was referred to a committee of three members.

DEBT DUE BANK UNITED STATES.

Mr. GALLATIN said he wished to lay a resolution and two petitions on the table. The resolution related to the Debt due to the Bank of the United States. There was one point which he wished to be clearly understood upon the subject: He wished to know whether the Bank had demanded the money for which the Government stood indebted to them. If they had, he would agree they must be paid. But, as he had seen nothing officially on the subject, he wished the matter to be inquired into. For that purpose, he proposed a resolution to the following effect:

"Resolved, That a committee be appointed to inquire whether the Bank of the United States are willing to continue the Loans heretofore made by them to Government, in anticipation of the public revenue, and amounting to 3,800,000 dollars, by new Loans, similar to those which they were used to obtain."

Mr. SWANWICK wished an amendment, "or any part thereof," to be added; which was agreed to, and laid upon the table.

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The House then formed itself into a Committee of the Whole on the state of the Union, when the resolution as proposed by Mr. SEDGWICK, and as proposed to be amended by Mr. BLOUNT, by striking out the words "Dey and Regency of Algiers and King of Great Britain," being under consideration—

Mr. DAYTON (the Speaker) acquiesced in the reasons which had been given in favor of taking up and deciding upon the different Treaties separately, although there might be no impropriety in blending hereafter, in one bill, the appropriations for them all. He hoped, nevertheless, that those gentlemen who were for passing over those which were first in order in the resolution, to get at the

Spanish Treaty, would assign some more satisfactory reason for taking up that, in preference to others, than had yet been offered. He called the attention of members to the British Treaty, and the state of things with respect to it. An assertion had been made yesterday, that nothing was necessary to be done on the part of this Government before the first of June—the day appointed for the surrender of the Western posts. He referred to the article itself, where it was expressly stipulated, that previously to that day, all the proper measures should be taken, by consent, between the Government of the United States and the Governor-General of Canada, for settling the previous arrangements which may be necessary respecting the delivery of the said posts. There were now only six weeks in which to settle the whole business. In a former debate, it was said that a latitude of six months after the first of June was given in the Treaty for the surrender to be made, in pursuance of the second article. This he flatly denied, and challenged gentlemen to support such an assertion by the instrument.

In addition to the arrangements contemplated in the Treaty, there were, he said, certain preparations which our particular situation rendered necessary. The troops requisite to take immediate possession of our posts could not be instantaneously transported thither, as it were, by a magical charin. Contracts must be advertised for, and made, for supplying provisions at the different new stations. The transportation of heavy cannon and military stores must also be provided for, and that too from a very great distance; for it was well known that the light artillery which is attached to such an army as ours was altogether unfit for garrisons. If it should be determined by a majority of the House of Representatives to withhold the appropriations that were necessary, in order to carry the Treaty into effect, the sooner that determination was known the better. The Message of the President which accompanied the Spanish Treaty was yesterday adverted to, Mr. D. said, to prove that it wanted an earlier attention than the other three. Upon a recurrence to those papers it would, he said, be found that the last week of the session would be as seasonably to act upon it as that day. It was not known that it was ratified in Spain; and, although he owned that it was not a sufficient reason for neglecting altogether to make provision, yet it might afford an argument for a delay, as long at least, as it might be exercised without possible injury. As to the English and Indian Treaties, there was a necessity for an early attention to them, whether they were to be rejected or not; and especially if they were to be carried into effect. He hoped some better reasons for taking up the Spanish Treaty first might be given, than those he had yet heard; for the motives of the gentleman from Pennsylvania, urging that it was for the interest of his immediate constituents, could not actuate the members of that House generally, who must consult, if they do their duty, not the interests of a part only, but of the whole.

Mr. W. LYMAN said, that when the gentleman from Pennsylvania [Mr. GALLATIN] assigned rea-

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sons for wishing to take up the Spanish Treaty first, it was not because his constituents would be most benefited thereby, but because attempts had been made in that part of the United States to mislead and deceive the people into an opinion and belief, that unless the British Treaty should be carried into effect, the Spanish and other Treaties would also be negated. If attempts of this sort had been made, Mr. L. said, in his opinion, it was a cogent reason for taking up the Spanish and other Treaties first, in order to undeceive them. This, however, was not the only reason that influenced his mind. The Spanish Treaty, he said, he considered entitled to a priority in point of merit. He should not attempt to go into the merits of it, particularly at this time; but thus much he would say, that he considered the Spanish Treaty, perhaps, as the most perfect ever entered into between any two nations: it reflected the greatest lustre on the two nations, and all concerned in the agency. Indeed, he had never heard even an objection against it. He therefore supposed there would be a perfect unanimity in the House relative thereto. The Algerine and Indian Treaties, although not so perfectly correspondent to our feelings and interests, would nevertheless meet, he supposed, with no objections; but, with regard to the British Treaty, it must be obvious to every one, from a former lengthy debate, that it would be thoroughly discussed and investigated; and he believed the subject would receive such an illustration as hitherto it had not met with in the United States. These considerations induced him to wish to dispose of those Treaties, about which they were entirely agreed, and they would then soon come to the question which the House seemed to be so impatient for. He did not wish any delay; he should be ready to meet the question relative to the British Treaty, and should act according to the best dictates of his understanding. If that Treaty appeared to comport with the welfare and interests of the United States, taking all circumstances into consideration, he should vote for it; but, if the reverse of this appeared, he should conceive, not only that he was at liberty, but also that it was actually binding on him, to vote against carrying it into effect.

He hoped, therefore, that the Spanish Treaty would first be taken up and acted upon, and that then they should take up the others distinctly and separately. They were subjects in their nature distinct, and could in no degree receive any light from being connected with each other; but, on the contrary, the connexion would tend to embarrass and perplex the question. It was introducing the principle of *tacking*, to which he had ever been opposed. He thought, if a question would not stand the test by its own merits, it ought to be rejected. A vicious principle, so far from being ameliorated by annexing it to a pure principle, served only to render the latter corrupt. He should therefore vote for the amendment, in order to bring the questions in a simplified state before the House. He should always be against confounding things with each other, which in their nature were so distinct and irrelevant. There could never be a

compromise between good and bad—between vice and virtue.

Mr. HULLHOUSE wished to bring forward three out of four resolutions which he had proposed some time before, but which were not then attended to. The three were—(the fourth being for carrying into effect the Spanish Treaty was already superseded)—first,

“Resolved, That it is expedient to pass the laws necessary for carrying into effect the Treaty lately concluded with certain Indians Northwest of the Ohio.”

The other two were in the same words, only for carrying into effect the Treaty with the Dey and Regency of Algiers, and the King of Great Britain.

Mr. SWANWICK said, he should be pleased if the gentleman from Connecticut, last up, might be accommodated, by having the Treaties taken up in the way he had stated. As the gentleman from New Jersey [the SPEAKER] had called for reasons why the Spanish Treaty should be taken up in preference to the others, he would give what he thought good reasons for it. No doubt the Treaties with Spain, Algiers, and the Indians, would pass through the Committee with little discussion; and the resolutions being passed, so much would be done. With respect to the British Treaty, it would become a subject of serious and solemn discussion, in which he trusted the greatest moderation and candor would prevail, and which would issue in the greatest public good. It would receive that discussion which it had not had in public meetings which have already judged upon it: for these meetings have either been its decided enemies or friends, and therefore the arguments were all on one side. No doubt the President and Senate had fully and fairly discussed its merits, but that discussion was unknown to the people. He expected many ideas would be thrown out upon this subject by the collision of sentiment, when it came under consideration, which had not been thought of—which would be like so many sparks of light to illuminate its merits or demerits; and, whatever the final determination may be, it will be founded upon the most profound investigation. To go first into the British Treaty would be procrastinating instead of accelerating public business. But were there no intrinsic merits in this Treaty with Spain, which ought to give it a preference of consideration? When his colleague [Mr. GALLATIN] stated as a reason for going into the Spanish Treaty, that it was a Treaty in which his constituents were particularly interested, it was good ground for him to found his wish upon. He hoped whilst gentlemen were legislating for the public good, they would never forget to cherish, with an ardent affection, the immediate interests of their constituents. Upon the same ground, the gentleman from New York [Mr. WILLIAMS] was in favor of the British Treaty. This was natural, and ought not to occasion any surprise or heat in the Committee.

But, after all, the vote of that House must be founded upon the good of the whole, which will be declared by a majority; therefore, a vote of the House would take up the Spanish Treaty, if taken

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up at all. He did not at present mean to go into the merits of the Spanish Treaty: he thought it a very advantageous one to this country. In discussing the merits of the British Treaty, he trusted they should avoid all recriminations or acrimony, and that they should exhibit an enlightened House—not guided by party spirit, but by a zeal for the public good. He hoped they should avoid thinking unfavorably of each other, on account of a difference of opinion, since they could no more think alike than they could look alike. He trusted, therefore, whatever might be the final decision, that good temper and harmony would prevail in their discussions.

Mr. MADISON would submit to the gentleman from Connecticut, to whose candor the Committee were indebted, whether the question was not decided against a *lumping* vote on all the Treaties, by the singular number, “the Treaty,” being inserted instead of “the Treaties;” and, therefore, that his resolutions were unnecessary.

He did not understand the gentleman from Pennsylvania [Mr. GALLATIN] in the same way in which the gentleman from New Jersey [the SPEAKER] had understood him. He mentioned the interests of his own constituents as inducements with himself for proposing, and not for the House for deciding, to take up the Spanish Treaty. But he would explain to the gentleman from New Jersey, and to the Committee, why the Spanish Treaty should first be taken up, and not the British. That Treaty had excited no opposition, and would probably pass through the House without debate, and a select committee could prepare and bring in a bill for carrying it into effect, whilst the British Treaty should be under discussion; but, if they began with a Treaty which might occasion a lengthy discussion, nothing would be done with the other Treaties before that was gone through; whereas, if they took up the other Treaties before the British, little time would be spent before they came to that Treaty. If the gentleman from Connecticut concurred with this idea, he could agree to let the question before the Committee be taken, and then move his resolutions in the order he proposed.

Mr. HARRIS said, as he had originally, by a resolution which he had some days ago laid upon the table, brought forward this measure of connecting in one view the several Treaties which had lately been concluded with foreign countries and the Indian tribes, and as the object of the measure had much been misunderstood, he thought it incumbent on him to state some of the reasons which had induced him to propose the resolution, and which still induced him to think that the whole subject of these Treaties ought to be considered together. [Mr. H. was reminded of the question before the Committee.] He knew very well, he said, what was the question, and should go on to treat the subject in his own way, but, he trusted, in perfect reference to the point now under consideration. If his reasoning did not appear conclusive, gentlemen would of course reject it; if, on the other hand, it should appear to have weight, it would no doubt have its proper effect. He believed that the resolution, notwithstanding the

amendment made yesterday, still went to connect the Treaties in one point of view. The amendment of yesterday was to strike out the words “several Treaties,” and insert the word “Treaty.” But still this word *Treaty* might apply, in discussion, to all the different Treaties enumerated in the resolution. The amendment now under consideration was to strike out part of these Treaties; and if that amendment should be rejected, the resolution would read perfectly well, and would include them all. This, indeed, was the precise form in which he had at first proposed this measure. Any observations which tended to show that all the Treaties ought to be considered together would be perfectly in order, to evince that this amendment ought to be refuted. [The Chairman declared that it was in order.] He should, therefore, take that point as open for discussion. It could not be supposed that he meant, by connecting the Treaties in one resolution, to compel gentlemen to pass upon them all in one vote: had this been the intention, it could not be the effect. It was well known that any member had a right to call for a division of the question when it came to be put. If a resolution should join four Treaties, and be discussed in that way, any member might call to have the question separately taken, whenever the Committee was ready to take it. No gentleman could suppose that a joint vote would be taken, but the several Treaties were placed in one resolution, not to be voted on together, but to be discussed together, because they were parts of one great system of foreign relations which have an intimate connection with each other; and that reasons might be deduced from one to show the propriety of executing the others. The settlement of a dispute with one nation would facilitate the settlement of disputes with other nations. This was the object of the resolution, and not to oblige gentlemen to vote for all the Treaties at once, as seemed to have been supposed.

Before he went further into the consideration of this question, he would remark on the observations which had been made on a gentleman from Connecticut, on saying that there might be reasons for not executing the Spanish Treaty. He was himself of opinion that there might be such reasons. He knew of no magic in the word *Spain*, that could render a Treaty with that Power, more than with Great Britain or any other Power, perfectly agreeable to those principles which ought to dictate the execution of Treaties. On the contrary, he could easily conceive of a Treaty with Spain which ought not to be executed, which would form one of those extreme cases where the aid of the Legislature ought to be withheld. Whether the Treaty actually concluded with Spain was of that description, was another question. He did not believe it was; but the gentleman from Connecticut might, with perfect consistency, be of a different opinion. That gentleman had been told that he could not vote against the Spanish Treaty, according to his own principles; that he was absolutely bound by it, and had no discretion left. But the gentleman from Connecticut had asserted no such principles. He had, on the contrary, asserted

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that there were cases in which he should think it his duty to vote against a Treaty; and this, the gentlemen who made the observation on him must have known.

But suppose the gentleman from Connecticut had declared the contrary, were there no cases in which a member declared one thing, and afterwards voted directly the contrary? Surely the gentleman from Pennsylvania [Mr. GALLATIN], would not say there were no such cases. Did not that gentleman declare, in the debate on a late important question, that where papers respecting a negotiation were demanded for the purpose of instituting an inquiry into the conduct of the negotiators, that purpose ought to be distinctly stated in the preamble of the resolution; and yet his name appears among the yeas on a resolution which expressly says that no such statement is necessary. [Here Mr. PAGE called Mr. HARPER to order, but the Chairman declared that he was in order, and Mr. GALLATIN begged that he might go on.] After this example, Mr. H. said, surely the honorable member from Pennsylvania will not say that member ought never to vote contrary to his previous declarations.

According to this view of the subject, the four Treaties ought to be considered in one resolution, and to be discussed together, because they formed parts of a great system of foreign relations which were closely connected, and could not be properly understood unless considered in one general and connected view.

This country, Mr. H. observed, previous to the late negotiation with foreign Powers, found itself engaged in a disagreeable dispute with Great Britain, partly arising from the late war, and partly from subsequent infractions of the Law of Nations. It found itself involved in a war with the Indian tribes, occasioned in some degree as was suspected, and he believed justly, by the possessors of the Western posts, and the manœuvres of the foreign Power by which they were held. It found itself in a dispute with Spain on points of very great national magnitude. It found itself in a contest with Algiers, extremely dangerous to our commerce and to the safety of our citizens—many of whom had been reduced to slavery by that Power.

Thus stood our foreign relations. The Power with whom we had the most complex and embarrassing dispute to settle, was a Power possessing great influence over all the others. She had great influence with the Indian tribes by means of her extensive intercourse with them, and the possession of important posts in their vicinity. She had great power over Algiers—so much as to have directed the terms of the late truce between that State and Portugal. This influence over Algiers was so great as, in a considerable degree, to direct their conduct, and had always been regarded as one primary cause of depredation committed by them upon our ships. She also had great influence over the Councils of Spain, from that union, in the present war against France, agreed on to prevent the establishment of a Republican Government in that country. How then could they pos-

sibly consider, separately, subjects which appeared to be so closely connected? Was it not evident that an accommodation with Great Britain was the foundation—the corner-stone—of our arrangements with all the other Powers on which the prosperity of our country—the security and extension of our commerce—so greatly depended? [Mr. CRABB spoke to order, but the Chairman informed him that Mr. HARPER was in order.] Will it not then, continued Mr. H., result clearly that, in considering the accommodation with Great Britain, and how far the terms of it ought to meet our approbation, the advantages which it gave us in settling our other differences ought to be taken into view? And, for this purpose, will it not be necessary to consider all the Treaties, and inquire into their mutual relations and connexion? Might it not appear that, even if the terms of that Treaty were less advantageous in themselves, it was proper to accept them, on account of the embarrassing circumstances under which it was made, and the additional weight which it enabled us to give to other negotiations? Could there be any doubt that this Treaty with Great Britain had facilitated our arrangements with the other Powers? Had our dispute with her continued, who could say that we should not still have been engaged in the Indian war—that we should have had a peace with the Algerines, or been able to bring Spain to terms so advantageous? Had we failed to settle our differences with Spain, or especially with Algiers, by Treaty, we might, and probably should have been obliged to resort to force; and, in that case, how would all our operations have been embarrassed! how would all our efforts have been divided and weakened by a dispute with a formidable and hostile nation in another quarter, which possessed the means of raising up so many enemies against us, and might so easily bring a great force to act against the weakest part of our country! But, by removing this power out of the way, we were left free to act with undivided force in other directions. Was it not, then, an object of great importance to terminate our dispute with this Power, admitting that some sacrifices of immediate interest were made in the negotiation?

What individual, he asked, engaged with four antagonists, would not wish, by any means in his power, to get the most mischievous and formidable of the four off his hands, in order to cope the more effectually with the rest? If this idea was just, the stipulations of all the Treaties ought to be viewed together, and the advantages of some ought to be balanced against any disadvantages which might appear in another. In order to do this the whole subject ought to be discussed in one resolution, though they might be separated, and no doubt would be, upon the call of any member, on taking the question. It was on this account he had brought forward the joint resolution at first. If these reasonings had not the same weight with the Committee which they had with him, they would, no doubt, amend the resolution in the manner now proposed; but he should vote for taking up the whole subject together, because he thought it ought to be jointly considered, and

should therefore be against the present amendment.

Mr. Buck said the proposed amendment was to separate the Treaties, and to take up one at a time. The question was, which ought to have the preference? He thought the British Treaty ought to have the preference. The reasons to support this opinion were founded upon the shortness of time there was betwixt the present period and the first of June. It was stated that this was the only Treaty about which there was likely to be any dispute. This was the only reason for deferring it, as he believed the reasons offered by the gentleman from Pennsylvania for taking up the Spanish Treaty would not influence the Committee at large. If the British Treaty was likely to consume a good deal of time in the discussion, it was the more necessary it should be immediately entered upon, because it would be necessary, before the posts were given up, to make some previous arrangements with the Governor of Canada with respect to the posts.

What was now, he said, the situation of the Treaty? After having spent four or five weeks in settling the rights of that House with respect to Treaties; after a long and solemn debate, they had agreed upon a resolution, that they had a Constitutional right to judge upon the merits of Treaties before they carried them into effect, and that they had a Constitutional right to the papers of a negotiation, which resolutions they had caused to be inserted upon their Journals. This was all they had done, after a sitting of three months, with respect to the British Treaty; he presumed that House would be consistent in their measures, and if they were, he presumed further measures would be taken to obtain those papers, and it was time to know what those measures would be. It was time that the President knew if the application was to be renewed, that he might be considering the matter. Mr. B. said, had he been with the majority, had he believed the House possessed a Constitutional right to the papers, he should, long before this, have brought forward a motion for the appointment of a committee to wait on the President with the resolutions expressive of the Constitutional rights of the House, and to renew the application for the papers; and if the President still refused, if the House acted consistent they would then adopt effectual measures to obtain them. He presumed some measure of this kind was to be brought forward, and if so, he wished it to be immediately done, for it was high time that all preliminary steps were settled.

For, if this was not now done, when should they get through the business? Not this session. Yet it is urged, that because this Treaty will take up time in discussion, the Spanish Treaty, to which there will be no objection, ought to be taken up. He believed there would be no objection to it. He presumed every gentleman was ready to pass upon it. But this was not sufficient reason for them to proceed to it, in preference, because, if that argument was good, they ought to go through all the business before them, which was not likely to un-

dergo much discussion, before they entered upon the British Treaty.

He could have wished that they might have gone into the consideration of that Treaty early in the session. Mr. B. said he was satisfied in his own mind that that Treaty ought to be carried into effect; but, though he had this bias on his mind at present, if gentlemen could show it to be so replete with mischief as it had been represented, he would join them in voting against it, not because he believed the House had a Constitutional right to judge of the expediency or merits of a Treaty, but he should vote against it upon revolutionary principles; for there was a possible point to which the constituted authorities might go that would make opposition a virtue. It was possible that the Legislature might pass a law which could not be said to be unconstitutional, and yet be so wickedly oppressive, as that the people might be justified in opposing it, and in preventing its execution; so it might be in respect to a Treaty; and, said Mr. B., if the British Treaty is half as bad as has been represented, and I can be convinced of it, I shall certainly vote against its execution; but if they were to put it off until all other business was gone through that they were agreed in, they should never get to that question. As he perceived, however, that they were going into a lengthy discussion upon mere preliminary points about modes and forms, he could wish the British Treaty might be struck out of the resolution, and that they might pass upon the others, which he believed they were all ready to do, and then the British Treaty might be taken up by itself; he therefore made a motion to that effect.

Mr. SEDGWICK said that, when he made the motion, yesterday, he had no intention to embarrass the Committee. That, although his motion was perfectly in order, was made relative to subjects immediately before the Committee, and was capable of any amendment or alteration which their pleasure should direct; yet, while he was laying that motion on the table, and before he was able to resume his seat, he was attacked by a succession of observations, made by different gentlemen, and with an indecency and warmth that he never before had witnessed in that House, nor in any other popular assembly of which he had been a member; nor, except in one Representative body, had he ever heard of such irregularities. The object of the motion was to unite all the Treaties, and to provide for their execution according to their respective stipulations. Believing, as he did, that good faith equally required a provision for all, and determined, as he was to give his aid for their provision, he knew no reason why this should be done separately. Believing as he did, he would not consent to a separation, nor if such separation should take place, could he consent to the precedence of that Treaty, which should accommodate the smallest number of inhabitants, to that which was most interesting to the great body of our fellow-citizens. If the majority thought differently from him, there was nothing in the motion, he had the honor to sub-

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mit, which could compel them to act contrary to their own opinion.

He did believe that no time was unnecessarily to be consumed in bringing this subject to an ultimate conclusion. But, if he concurred in opinion with those who held that the House was perfectly at liberty to make or to withhold provision, he would tell gentlemen that the Spanish Treaty contained more than merely opening the Mississippi—it contained an alliance offensive or defensive. He did not, however, believe that there existed with any gentleman an intention to obstruct a provision for any of the Treaties except the British. He wished the same good disposition respecting that, for he, in fact, thought it more interesting to the United States than all the rest.

It had been his earnest wish that the important subject of the British Treaty now before the Committee, might have received a full discussion, by the Representatives of the people; because he believed such discussion would have afforded the most complete demonstration to the people of America, and, he flattered himself, to a majority of those Representatives, that the objection to it was ill founded. That in it Great Britain had made concessions to this country, which she never had to any other. That those concessions were of great value, and that none of our grants were made, but for valuable considerations. That, if a discussion should fail to produce a conviction of these truths, he had a confident reliance, and he hoped the result of our reflections would show that it was not ill-founded, that a spirit of accommodation and mutual concession would produce a consent to make the experiment which the Treaty proposed. An experiment of two years, which could not even in the view of the warmest enthusiasm, be attended with any considerable sacrifices. But this wish must be abandoned. If, indeed, it was true, as had been holden, that the House must co-operate in the Treaty before it had validity, then, until such co-operation, it was not binding on this country, and if not on this, then not on the other contracting party. The first act to be done under the Treaty, was the delivery of the posts. Previous to that act, preliminary arrangements must be made, and the time necessary for that purpose must not be consumed in a war of words. He was, therefore, compelled, as he viewed the subject, to abandon the earnest desire he had fully to discuss the merits and demerits of the Treaty, but, under this misfortune, he had consolation in the reflection, that the whole subject was before an intelligent public, and there, under the circumstances, he was willing to leave it.

It might be proper, at this awful crisis of the affairs of our country, the most interesting to a benevolent and patriotic mind that possibly could be presented, to hint, and he would do it very concisely, at those circumstances which ought to produce union and concord.

Remove those causes which threaten our peace from without, harmonize the several branches of our Government, dispel discord from the public councils, and repose confidence where it was due, and the materials of enjoyment in this country

were more and greater and more within the reach of the great body of the people, than ever had been the case in any age or country. To perpetuate and improve such a scene of human happiness, much of the passion and of prejudice which might threaten its existence, should be subdued. He hoped we should not, at this early stage, blast those fair prospects, which were unfolding to cheer the hearts of the friends of mankind, and the lovers of rational freedom.

To deny a provision, as he feared was in the contemplation of some, he hoped not a majority of this House, was to set the branches of Government at war with each other, and in such a state as to prevent the benefits which would result from its harmonious administration, benefits which were of too great importance lightly to be destroyed. This Government had done more to advance human happiness than any which ever existed. At its commencement we had fully experienced the effects of a Government of persuasion only. The reputation we had acquired by our glorious and successful struggle for freedom was annihilated. Confidence in individuals was destroyed, because the aid of Government was not afforded to the support of private credit. States were become the rivals of each other, and Legislative hostility was not only declared but prosecuted, between them with rigor. The people burdened with taxes, and universally complaining of their weight; yet, the interest of the Debt which was accumulated and unpaid, amounted nearly to one-half of the principal. Behold, now, said he, the glorious reverse. Credit, public and private, was restored; manufactures instituted and extended; our navigation immensely increased; our weight in the great political scale felt and acknowledged; foreign trade doubled, while domestic commerce was quadrupled. At the time that the protection of the frontiers alone, had cost more annually than the contributions to the Treasury under the Old Government, the finances had been so arranged, that the accumulation of debt had been stopped, and a foundation laid, he trusted, for its final discharge; while so judicious or fortunate had been the imposition of burdens, that there existed no just cause for clamor or complaint. But what was infinitely more soothing to the honest and honorable pride of a real American was, the re-acquisition of character; the American name was again held in respect; and as well the administration as the form of our Government were quoted by men of enlarged and enlightened minds as examples for imitation. Our citizens were happy, contented, and prosperous, and advancing, with unexampled progress in everything which rendered them respectable. The beneficent progress of such a Government, surely, ought not, for light or trivial causes, to be disturbed.

To lay a secure foundation, to perpetuate this happy scene, it had been necessary to adjust all those causes of contention which threatened our tranquility from abroad. This was done by the several Treaties which the watchful guardianship of the President, during the last year, had brought to a happy conclusion. That with the Indians

had arrested the progress of savage barbarity, and staid the effusion of the blood of our frontier brethren. That with Spain had provided the means of accommodation, and an advancement in wealth, happiness, and increased civilization to the people of the West; and was an instance of enlightened magnanimity, by which the Atlantic States, to their own prejudice, would voluntarily sacrifice benefits, to the happiness of a small part of their country. That with Algiers had unchained our citizens, held in miserable and savage slavery, and opened a prospect of immense extent of profitable commerce. That with Great Britain was intended to heal wounds, which otherwise threatened much evil. The causes of complaint between the two countries were of such a nature, of such continuance, had produced so much irritation and resentment, that there remained no alternative but war or amicable adjustment. In this situation, under the instructions of the wisest of statesmen, who had given the highest evidence that he loved his country and knew its interests; negotiated by a man who had also given decisive evidence of ability and integrity in negotiation; and approved by Senators who had, and still did enjoy, the confidence of their country, a negotiation had been made. This Treaty, he thought, had merits, and that every part of it could be vindicated. It had, indeed, been vindicated, for, although the objections to it had been a thousand times repeated, yet they had been as often satisfactorily answered, so satisfactorily, that, if there ever was a public opinion well known, it was, that this Treaty ought to be executed with good faith.

In this situation, then, did it not become the highest duty of the guardians of the public happiness to sacrifice passion and resentment, to cultivate temperate forbearance and moderation, to heal wounds which had been inflicted, and make an experiment which certainly would cost little; and would demonstrate whether the friends or enemies of the Treaty had judged most soundly of the merits or demerits? If, on the other hand, a provision was rejected, no man could foresee all the evils which would be produced—charges of wanton violation of the sacredness of Treaties—a divided and impassioned country—a Government whose essential departments were in a state of hostility, and to all this added the desolating horrors of war.

He would not allow himself for a moment to hesitate; he never could believe that it was true as rumor had reported, and as seemed to have been declared by a gentleman in that Committee, he never would believe that a majority of the Representatives would assume the mighty weight of responsibility which such conduct would impose. They would not give countenance to the malign predictions of the enemies of Republican Government, that we should add to the number of sad examples to prove that no people have the temper, the moderation, and the virtue necessary to self-government. That the strong passions of man can only be controlled by artificial arrangements, independent of the mass of the people. But, on the other hand, he would confidently hope that

the issue of our deliberations would be productive of the measures necessary to secure the peace, honor, and tranquility of our country.

Mr. CORR hoped gentlemen would not take up so much time in preliminary discussion. He could not see any impropriety in the present question. He saw no material difference, whether they took up one Treaty or another. He believed that, before now, they should have gone through three of them, if they had begun the business, instead of debating about what they should do. The British Treaty appeared most important, but he did not think it of much importance which was taken up.

Mr. BUCK rose to know whether his amendment of the motion was in order.

Mr. GALLATIN said, he did not make the motion, but seconded it. He would not consent to leave the Algiers Treaty, and to strike out the British Treaty alone, because, if this question was carried, he meant to make another motion to strike out the Indian Treaty, merely to establish the principle, that they were to take one by one—a decision which he thought had been made yesterday. He expected that the only intention of introducing the words "the Treaty," instead of "the Treaties," was to establish the principle of taking the Treaties up separately; yet, after this principle had been established, the gentleman from South Carolina [Mr. HARRIS] had entered into a long discussion on blending them together; and the gentleman from Massachusetts, [Mr. SEDGWICK,] to show the impropriety of carrying into effect the British Treaty. He was in favor of first taking up the Spanish Treaty; but rather than have lost two days in debating on the subject, he would have taken up any other; but, as the time had been lost, he hoped the Spanish Treaty would be taken up first, because he did not think any of the reasons urged against taking it up had any weight.

It was said that it was necessary to take up the British Treaty, because immediate provision was necessary in order to take possession of the posts now occupied by the British; but he knew of no such provision which was to be made. They had already appropriated money for the Military Establishment; and it was seen, every year, that large contracts were made to deliver stores at any place where they should be required. This was an Executive matter which did not depend on them. If the Executive, who had already named the Commissioners to be appointed in conformity to the Treaty chose to take possession of the posts, (which they had a right to do under the Treaty of Peace,) he would vote for any additional appropriation for the purpose.

The discussion on the Spanish Treaty would be short, for it was a counterpart of the British, and contained no conditions but such as were both liberal and highly advantageous to all parts of the United States. It was true that the part of the country he represented was more immediately benefited by it, and it was a reason why he felt himself more interested in that than any other of the Treaties; but allowing that reason not to have any weight with the other members of the House,

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yet the consideration of the Spanish Treaty being consonant with the opinion of all, would, he hoped, influence them to take it up first, as it would be attended with no debate, and no time could be lost by doing it. But there were additional reasons which weighed with him. It had been declared, that if the British Treaty was not carried into effect, gentlemen would be justified in voting against the other Treaties. He wished, therefore, to bring those gentlemen to a vote on the Spanish Treaty, before a decision was had on the other, and see whether they would refuse to vote for it. For this reason, he should move to strike out also the words "and with the Indian tribes west of the river Ohio," which would leave the Spanish Treaty alone in the resolution. He would wish to accommodate the gentleman from Vermont; but, as to himself, he could not consent that the Treaties should be taken up together. The vote of the Committee would determine which of the Treaties should be taken up first.

Mr. GILES did not intend to have said one word more in this preliminary discussion, if a waste of time had not been imputed to those who were in favor of considering the Treaties separately. Whereas, if the Treaties had been suffered to have been considered distinctly, as was proposed, three of them would have been decided in one fifth of the time which had been spent in debating upon the manner of considering the subject. The gentleman from Massachusetts [Mr. SEDGWICK,] had said that he did not mean to embarrass the Committee by bringing forward his resolution in the way he had done, and that he had done no more than was done by the gentleman from North Carolina [Mr. BLOUNT] a few days ago. Mr. G. would say nothing as to the intention of the gentleman, but it must be admitted that embarrassment was the result of his conduct. In the other respect he was also mistaken, for that gentleman permitted the Chairman to be seated, and to read the papers before the Committee, previous to the introduction of his motion, but the gentleman from Massachusetts had brought forward his motion before the Chairman had opened the subject at all.

The gentleman very gravely reminds gentlemen of their warmth. Mr. G. declared he had not been at all agitated; and he was inclined to think it was the gentleman's own irritability which led him to think others were intemperate.

Gentlemen had talked of responsibility on this subject. He looked upon himself as responsible upon every occasion; and he invited responsibility upon this and every other question. He was constituted an agent for certain purposes, which he was to execute to the best of his ability. If he did not do this, his constituents would have just cause of complaint.

He did not mean to follow the example of the gentleman from Massachusetts, in going into the merits of the Treaty at present. When it came before the Committee he should state as concisely as possible the motives which would actuate his vote on the subject. To reply to all the remarks of the gentleman, with respect to the happiness

and prosperity of the nation, would be equally out of order. He trusted all the Treaties would be separately considered. For this purpose, he hoped the question on striking out would be immediately taken, that they might go to business.

Three several motions were put and carried for striking out—"with the Dey and Regency of Algiers," "with the King of Great Britain," and "with certain Indian tribes."

Mr. GALLATIN then moved to strike out the words, "provision ought to be made by law," as the expression seemed to imply that they were not at liberty to pass or not to pass laws or carry the Treaties into effect. He proposed to introduce, instead of the above words, those used in the resolution declaratory of their opinion upon the Journals, viz.: "it is the opinion of this Committee that it is expedient to pass the laws necessary."

Mr. DAXTON (the Speaker) objected to the amendment as unnecessary. The phraseology of the resolution was the same with that used on all similar occasions. He called upon gentlemen to look into the Journals, and they would find the words were the customary words used. Why, then, carp at this form? It would be impeaching their former proceedings. Do not let it be said, added he, that by such a form of words they left to themselves no discretion.

Mr. GILBERT wished to abide by the usual form.

Mr. GILES did not think the words had any binding influence; but this was the first precedent with respect to Treaties, and it would be as well to adopt the words which they had used in their declaration entered upon their Journals.

Mr. WILLIAMS thought they ought to vote for the amendment, because it was new.

Mr. HARPER opposed the amendment, and said, if it was carried, when it came into the House he should move to have the form restored, and call for the yeas and nays upon the question.

The question was put, and carried, 48 to 40.

Mr. GALLATIN wished to know of the mover of the resolution what was the meaning of carrying a Treaty into effect with bad faith? For if it could not be carried into effect with bad faith, he thought it unnecessary to say it should be carried into effect with good faith, and should move to strike out the words.

Mr. SEDGWICK said, he could not explain what it was to carry a Treaty into effect with bad faith; he knew what it was to carry a Treaty into effect with good faith, but left the gentleman who made the inquiry to discover the reverse.

Mr. TRACEY said, if no faith was pledged, then the words ought to be struck out.

The question was put for striking out the words, and carried; and the resolution for carrying the Spanish Treaty into effect being before the Committee,

Mr. GOODhue said, he did not mean to oppose the resolution for carrying into effect the Spanish Treaty, but wished to inform the Committee, and particularly those who have held up this idea, that whenever a Treaty provides an arrangement running counter to an existing law, it becomes ne-

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cessary, in order to give such arrangement validity, that a repealing law should be made: that, in the tenth article of the Spanish Treaty, it is stipulated that any goods on board a Spanish ship which may be wrecked on our coast, shall not be subject to the payment of any greater dues or duties than they would be in a like case on board of an American vessel, which is annulling our revenue laws in this respect, which requires the payment of ten per cent. more. He mentioned this only to remind those gentlemen who had held up this idea as intended to operate relative to the British Treaty, that if it be necessary in the one case, it must be in the other, and not that he held any such opinion, for he believed a Treaty was a law of the land, without any interference of theirs to make it so.

Mr. SWANWICK said, he would beg leave to detain the Committee whilst he made a few observations upon the Spanish Treaty. At the same time that that Treaty removed all cause of difference between the United States and Spain, it did not shackle their commerce with respect to Spain; it had not stipulated any particular regulations with respect to the ships of either country, but left to each country its own regulations. When the Treaty was negotiated, it was well known that all those States in the Union which grow wheat, corn, &c., would turn their eyes to the settlements of Spain, as opening a ready market for their produce. It might have been thought the policy of Spain to have yielded up her markets on unfavorable conditions, but she admitted us in her ports on the same terms as other nations.

He had always considered Spain as liberal with respect to commerce, because, although she may shut us out of the Havana, still, by a circuitous course, we supplied their West India settlements in time of peace; and it was a commerce that always brought freight with it. If Spain had been actuated by a narrow policy, she might have stipulated it to them on disadvantageous terms, or loaded our ships with restrictions to countervail those upon her. No such terms are, however, to be found in the Treaty. Trade is by it left as it ought to be, in a great measure, to regulate itself.

The great article, that neutral ships make neutral goods, was recognised in this Treaty. What greater advantage was it possible for Spain to confer? It was even an article of the Treaty that articles of sustenance should never be considered as contraband. Honorable regulations for both countries! How happy would it be for the countries in Europe, if the same regulations were everywhere made! There would then be no necessity for offering bounties on provisions; for the greatest bounty was to let commerce be perfectly free, and to shackle or restrain it, was the greatest misfortune that could befall those even who imposed such restraints. He had always considered the free circulation of the necessary provisions of life not only as a great blessing, but as essential to the welfare of the human race; and as this was attended to in the Treaty with Spain, he delighted to dwell upon it. What had

she said on the subject of cordage, iron, pitch, turpentine, &c.? Had she said that these valuable articles of ours should not be carried in time of war, but be deemed contraband? No. How magnanimous was it in that nation, that they were not afraid of our supplying their enemies with these articles in time of war! They discarded that narrow policy which had been embraced by other nations. Rightly had the Secretary of State of Spain been called the Prince of Peace. He not only opened the sea to us, but, also, the noble river of the Mississippi, which a barbarous policy had long kept shut against us. But did Spain stop here? No; she knew that it would be necessary we should have a depot in the river for our produce, and she has said that depot shall be her own city of New Orleans, without laying either a tonnage on vessels or a duty upon goods. All she requires is simply payment for storage of the goods. The consequence will be, as is most frequently the case, that her liberality will itself reward her, for the town of New Orleans will probably become the emporium of the Western world.

Spain had also taken great pains with respect to fixing the boundaries, so as to preserve peace with the Indians, and to prevent those injuries to which they had been heretofore too much subject.

There was one article in the Treaty particularly favorable to the merchants of this country. It was well known that heretofore there were often heavy embargoes on their ships in Spanish ports, which sometimes detained them a considerable time, to their great inconvenience. In future no embargo was to be applied to them.

Here, said Mr. S., is a list of advantages. But what were they to give in return? Embargoes were not to apply to Spanish ships when in this country; but these seldom occurring here, were nothing in comparison to the advantages obtained. It had happened heretofore, very unfortunately for our merchants, that some of their vessels had fallen into the hands of Spanish privateers. That nation was too magnanimous to countenance such proceedings; she comes forward and says she will make good the losses without stipulating any return of advantage. She might have contrived to set off against this claim. When they considered the importance of a friendly understanding with this nation; that she was the third maritime nation in Europe, having seventy ships of the line, besides a considerable number of frigates, and that their territory on this Continent joined us, he trusted they should always cultivate her friendship. He gave a preference, in taking it up, to the Treaty with this Power, to any he had lately laid before us, because he saw on the face of it a liberal and enlightened policy, favorable to this country.

He did not intend to take up a much longer time of the Committee. There had lately, he said, a considerable change taken place in the politics of Spain. The Prince of Peace had been so fortunate as to effect a general pacification for his country, and they were, perhaps, about to become mediators in the affairs of Europe; nor

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should he be surprised if she had at present the means of dictating terms to the maritime Powers, by throwing the weight of her forces in either scale. Should they, then, think for a moment on a rejection of this Treaty, because there might be difficulties as to that with England? He hoped not. Spain may be of great service to this country. Every one knows the interest which she has with the Dey and Regency of Algiers, and her neighborhood to that Power. If a time should come when they should find themselves obliged to send their frigates into the Mediterranean, where could they find so convenient a port for them to put into as Cadiz? It would be beneficial in every point of view to keep friends with that country. Considering all these circumstances, he hoped gentlemen would consider twice before they determined to reject the Spanish Treaty. He could not refrain, on this occasion, from giving the praise which he thought due to the contracting Powers.

Mr. DAXTON rose to request a vote might be taken upon the question, as he doubted not gentlemen had formed their opinion upon the Treaty before them; and, if every gentleman in the Committee was to rise and speak as greatly at length as the gentleman who had just sat down, they would not have the question put for several weeks.

Mr. HARPER said he did not rise to question the goodness of the Treaty, nor the pacific intentions of the Prince of Peace; but to say that the gentleman from Pennsylvania had certainly misunderstood what had been said in that Committee, when he stated that any one had proposed to reject the Spanish Treaty. Several gentlemen, it was true, had said, that if the British Treaty was rejected they might reject others. But did any one think that the members of that House were like angry children, and because they could not get all they wanted they would not have a part? He should vote for the Spanish Treaty, as he intended to vote for all the others.

The motion was put and carried.

Mr. HILLHOUSE wished to bring forward the resolutions which he had before proposed, excepting the Spanish Treaty, which had just been carried. They were read.

Mr. GILES wished the phraseology to be altered so as to correspond with the resolution already passed: which was agreed to.

The resolutions for carrying into effect the Treaties with the Indian tribes, and with the Dey and Regency of Algiers, were severally put and carried.

TREATY WITH GREAT BRITAIN.

The resolution for carrying into effect the Treaty with Great Britain having been read—

Mr. MACLAY rose and said he meant to oppose the resolution. He would make a few observations as to the reasons which had induced him to disagree to the present proposition, and to offer another in lieu of it. When the question of the British Treaty had been indirectly brought forward, he had attended with great patience to the arguments for and against the question then agi-

tated. And here he must confess that, previous to that discussion, he was rather inclined in favor of the Treaty; he thought there was nothing in it which would warrant the outcries made against it, but that the opposition to it might have been raised by sinister motives, and that the people had not had proper information on the subject. In the meantime he endeavored to search for himself, and to gain all the information he was able to obtain on the subject; the result left an unfavorable impression upon his mind. It appeared to him that the Treaty did not give satisfaction for past injuries; that it did not provide for the loss of negroes; it did not assure recompense for spoiliations on their commerce; nor did it propose to deliver up the posts in the condition in which they were to have been delivered up by the Treaty of Peace. It appeared that they might become charged with debts which they did not owe. It appeared to afford no security for the future, and decided the question of neutral vessels making neutral goods, against them. It appeared to take away their best weapon of self-defence, by narrowing the power of that House with respect to sequestration of debts, to operate against the interests of the United States.

Under this conviction, he turned his mind to the consideration of the situation in which the House of Representatives stood, and the duties which they lay under. Their duties seemed to divide themselves into two classes: first, the complete Legislative power of the country; the other those special duties in which they stood related to the people as their Representatives. In considering these duties he should not trespass much upon the time of the Committee by going into detail. It seemed evidently to be one of their duties to guard against the encroachments which might be made by the Executive on the rights of the people. The necessity of such a guard would be apparent whenever they looked into the Governments of Europe, where it would always be found that the Executive was inclined, by gradual steps, to encroach upon the Legislative authority. This being the special duty of the House of Representatives, it was one that could not be dispensed with. With respect to the present Treaty, a part of the people consider that the Legislative rights of that House have been encroached upon. The petitions on the table, from persons in different parts of the Union, were to this effect.

In that situation stood the House at that moment. They had, in order to ground their deliberations, and to form their judgment, called for information from the PRESIDENT. That information had been denied to them; they were left to take their measures in the dark; or, in other words, they were called upon to act without information. These considerations induced him to offer a resolution in place of that now under consideration.

Mr. M. then submitted the following preamble and resolution:

"The House having taken into consideration the Treaty of Amity, Commerce, and Navigation, between the United States and Great Britain, communicated by

the President in his Message of the first day of March last, are of opinion that it is in many respects highly injurious to the interests of the United States; yet were they possessed of any information which could justify the great sacrifices contained in the Treaty, their sincere desire to cherish harmony and amicable intercourse with all nations, and their earnest wish to co-operate in hastening a final adjustment of the differences subsisting between the United States and Great Britain, might have induced them to waive their objection to the Treaty; but, when they contemplate the conduct of Great Britain, in persevering, since the Treaty was signed, in the impressment of American seamen and the seizure of American vessels, (laden with provisions,) contrary to the clearest rights of neutral nations; whether this be viewed as the construction meant to be given to any articles in the Treaty, or as contrary to and an infraction of the true meaning and spirit thereof, the House cannot but regard it as incumbent on them, in fidelity to the trust reposed in them, to forbear, under such circumstances, taking at present any active measures on the subject: Therefore,

"Resolved, That, under the circumstances aforesaid, and with such information as the House possess, it is not expedient at this time to concur in passing the laws necessary for carrying the said Treaty into effect."

Mr. GILES wished the resolution just read might be printed for the use of the members, together with the one they were then considering. He moved that it be laid on the table.

Mr. HENDERSON said that the paper last read could not be laid on the table until the former resolution was disposed of.

Mr. GILES moved that the Committee rise, in order to get rid of the resolution. He meant, he said, to make some remarks upon the British Treaty, but not expecting that an opportunity would be given to-day of speaking to the subject, he was not prepared to enter upon it.

Mr. MACLAY withdrew his motion, on being informed he might bring it forward in the House.

Mr. BUCK said, it appeared to him time that all the preliminary questions were settled, and he hoped would be settled, before the Committee rose, what should be done with the resolution which had been read. He thought it was consistent with the doctrine which was wished to be established. He was persuaded that every gentleman had made up his mind on the subject, and if they debated for three weeks no change of opinion could take place; he wished, therefore, they might determine whether the proposed resolution should be taken up.

Mr. JEREMIAH SMITH said, the paper which had been read by the member from Pennsylvania [Mr. MACLAY] was certainly not in order. He had no objection, however, to its being laid upon the table and ordered to be printed; still he believed it proper that the discussion which might take place should be on the resolution before the Committee, as that was the proper question. For his own part he should be against a discussion upon the British Treaty being gone into. It was his wish to take the question then; but if gentlemen desired to go into the discussion he was willing to give them an opportunity.

Mr. HILLHOUSE said the resolution might be

brought forward in the House and referred to the Committee, and then if members wished to have the gentleman's [Mr. MACLAY's] resolution in their hands it might be printed.

Mr. GILES agreed with the gentleman from Connecticut. Those who were opposed to the Treaty wished to have the resolution which had been proposed in their hands. If gentlemen were ready to speak to the merits of the Treaty, he would have them proceed; if not, he hoped the Committee would rise.

Mr. BOURNE hoped the Committee would not rise. The resolution of the gentleman from Pennsylvania was exactly the reverse of the resolution on the table. Ought a delay, he asked, to take place on a subject of such importance? Gentlemen say they wish to have an opportunity of speaking; but to what purpose? Was there a member of the Committee who was not decided? If there was one member in that Committee who would say he was not decided, he would not object to a debate taking place. But he believed that that was not the case, and that a three weeks' debate would not make the least alteration. They knew that the British Treaty had long been the subject of reflection of every member: for what purpose, then, defer a question which ought to be decided with celerity? He hoped, therefore, no further delay would take place, but that the question would be taken.

Mr. W. LYMAN did not think the expediency or inexpediency of the British Treaty had been considered three weeks. The question which had been so fully discussed was on the powers of the House. How could it be said that the Treaty had had an ample discussion, or that no change of opinion would take place? Even the gentleman himself might think differently from what he then did, after a fair discussion of the question; and he believed it would be canvassed in a fairer and more ample manner than it had hitherto been considered. It was said the resolution offered by the gentleman from Pennsylvania was the reverse of the one now under consideration. The Committee, he said, could not be forced to discuss the question in any way they did not like. With respect to the preamble to the resolution, it was by no means new; it was a practice recommended by the greatest civilians: it was a kind of window to the subject. He hoped the Committee would rise, as it was near the usual time of adjournment, and that the resolution would be printed.

Mr. MURRAY did not mean to enter into the merits of the Treaty, nor the resolution of the gentleman from Connecticut, [Mr. HILLHOUSE.] more than to say that it met his hearty concurrence. The resolution for the inexecution of the Treaty brought forward by the gentleman from Pennsylvania, [Mr. MACLAY,] contained a proposition directly the reverse of the first. It was an issue joined. He believed that members were prepared to vote, and he wished the question to be taken. In this state of things it was extraordinary to him to hear the gentleman from Virginia move for the Committee to rise. Yesterday he had united with that gentleman in pushing on the

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other Treaty questions; he now called upon that gentleman to manifest a similar disposition; for he would again say that the subject was completely understood both by the House and the country, and the time so extremely pressing that the execution of the Treaty was more valuable than any explanation which members could give. The country requires of us, at this crisis, acts and not speeches.

Mr. GILES believed this subject required some animadversion. He was yesterday desirous of settling the order of proceeding before they rose; but when the subject came before them, he expected some time would be spent upon it. He thought the public at large had a right to expect a full discussion of the subject. He was of opinion they ought not unnecessarily to occupy time. He only wished for an opportunity for the subject to be candidly argued. It was probable there might be a strong bias on the public mind, and he hoped discussion would have a good effect. He hoped a question already producing so much agitation, would be taken up and decided upon in a manner suitable to its importance. He thought it would not be treating the public mind with a sufficient degree of respect, to take a hasty vote upon the subject. He did not think that gentlemen in favor of the Treaty would have wished to have got rid of it in this way. He owned he could not discover those merits in the Treaty which other gentlemen cried up; but he pledged himself that if they will convince him that the Treaty was a good one, he would vote for it. He was desirous of knowing in what latent corner its good features lay, as he had not been able to find them. He thought he should be able to show features in it which were not calculated for the good, but for the mischief of this country. He hoped, therefore, the Committee would rise, and suffer a proper discussion to take place.

Mr. TRACY wished the Committee to rise. The gentleman from Virginia wished to deliver his sentiments on the occasion, and he wished to hear them. He was willing to give him time; for if he had the task upon him to prove the British Treaty as bad as it had been represented to be, he ought not to be hurried.

Mr. HOLLAND was glad to hear that there were gentlemen in favor of the Treaty; at least, in favor of discussion.

Mr. MURRAY would vote for the Committee to rise, as he despaired of taking a vote or of hearing a word said to-day on the merits of the resolution offered. Gentlemen will, of course, come prepared, and he trusted that, however terrible the Treaty may have struck them in the dark, a little discussion might diminish their horrors. He could not, however, suppress his surprise that none of those—and especially the gentleman from Virginia [Mr. GILES]—who had entertained opinions hostile to the Treaty so long, should be at a loss to enter on its discussion with an eagerness proportioned to their zeal and conviction of its mighty faults. But the gentleman, it seems, has left his paints and brushes at home, and cannot now attempt, though the canvass is before him, to

give us those features of the Treaty which have been so caricatured out of doors. Nay, the gentleman from North Carolina was not ready; and even the gentleman from Pennsylvania's promptitude failed him, and the promptest man certainly he was he had ever known. He would agree that the Committee should rise, hoping that the delay was an aversion to do mischief, and relying on the effects of a night's reflection. The pillow is the friend of conscience.

Mr. PAGE would not object, if gentlemen wished it, to the question being now taken, as this was not the place for taking a final decision; and those who had arguments on the subject which they wished to deliver, might deliver them in the House. It was true there would not be so much latitude allowed there as in Committee of the Whole; but there every member would have an opportunity of speaking twice, which would be at least enough for those who did not mean to speak at all.

The Committee rose, and had leave to sit again.

Mr. MACLAY wished to lay the resolution which he had read in the Committee before the House. It was accordingly read, and referred to a Committee of the Whole on the state of the Union.

Mr. GALLATIN moved that the resolutions which had been agreed to in the Committee of the Whole, might be taken up.

Mr. JACKSON wished the yeas and nays to be taken upon them.

Mr. SEDGWICK said, that having examined the Journal and found that the form which he first gave his resolution was the form which had been always used, and that the form it now bore was perfectly novel, he should move to have the original form restored to it.

Mr. HARTLEY hoped this amendment would prevail, and moved that the yeas and nays should be taken upon it. They were accordingly taken, and were—for it 37, against it 55, as follows:

YEAS.—Benjamin Bourne, Theophilus Bradbury, Daniel Buck, Joshua Colt, William Cooper, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, Thomas Harbey, Thomas Henderson, James Hillhouse, William Hindman, John Wilkes Kittera, Samuel Lyman, Francis Malbone, William Vans Murray, John Reed, Theodore Sedgwick, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

NAYS.—Theodoros Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, John Clopton, Isaac Coles, Jeremiah Crabb, Samuel Earle, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, William B. Grove, Wade Hampton, George Hancock, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, James Holland, George Jackson, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge,

Frederick A. Muhlenberg, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, Francis Preston, John Richards, Robert Rutherford, Jno. S. Sherburne, Israel Smith, Thomas Sprigg, John Swanwick, Absalom Tatom, Philip Van Cortlandt, Abraham Venable, and Richard Winn.

Mr. JACKSON moved that the yeas and nays should be taken upon the resolutions for carrying into effect the Treaties. They were taken upon the Spanish Treaty; but every voice being in favor of it, the yeas and nays were dispensed with on the Indian Treaty, as that resolution seemed also to pass unanimously.

Mr. CHRISTIE making some objections to the resolution for carrying into effect the Treaty with Algiers, and some papers relative to it being confidential communications, and reported to a select committee, on motion, the House adjourned.

FRIDAY, April 15.

Mr. ABIEL FOSTER from the committee to whom was referred the resolution respecting the expediency of preventing, for a limited time, the exportation from the United States of Indian corn or corn meal, rye or rye meal, made the following report, which was read and agreed to by the House:

"That in some parts of the United States, owing to an unfavorable season the last year, and other causes, there exists a scarcity of the articles mentioned in the resolution; but that generally there is a plentiful supply. That, notwithstanding the price of those articles are high, yet they do not generally exceed the present enhanced prices of labor and other articles; that recent information of the state of foreign markets in Europe and other countries, does not authorize the expectation of any considerable exportation of those articles from the United States; that many of the principal seaport towns appear to be well supplied with the articles in question, not only sufficient for their own consumption; but in such abundance as to be able to supply other parts of the United States, where a scarcity exists; and, from the information received by the committee, it is probable those markets will be resorted to, as affording a prospect of better prices than can be expected from foreign markets. The committee also find that merchant mills and stores in several parts of the interior country, are well supplied with very considerable quantities of the articles mentioned in the resolution, as well as with wheat and flour; that the prices of the latter have fallen very considerably within a short time past. The committee, therefore, beg leave to submit to the House the following resolution, viz:

"Resolved, That it is inexpedient to prohibit the exportation of Indian corn, corn meal, rye or rye meal."

EXECUTION OF TREATIES.

The House took up, as next in the order of the day, the resolution for carrying into effect the Treaty lately concluded between the United States and the Dey and Regency of Algiers.

Mr. SWANWICK said that one of his constituents had put into his hand this morning a letter from Captain William Penrose, at Algiers, dated January 4, 1796, by which it appeared that the American prisoners were not then released, but kept at hard labor there. Mr. S. read the letter.

Mr. GALLATIN made three several motions for committees to be appointed to bring in a bill or bills for carrying each of the three Treaties agreed to into effect; all which were agreed to.

Mr. G. also presented a number of petitions from the Western country, signed by 328 persons, praying for the English and Spanish Treaties to be carried into effect.

THE TREATY WITH GREAT BRITAIN.

The House then resolved itself into a Committee of the Whole on the state of the Union, when, having read the resolution for carrying the British Treaty into effect—

Mr. BUCK rose, and wished the question to be taken upon Mr. MACLAY's resolution. This was opposed by Mr. MADISON and Mr. HILLHOUSE, and then Mr. MADISON addressed the Chair as follows:

Mr. M. said, on a subject of such extent and importance, he should not attempt to go through all the observations that might be applicable to it. A general view of the subject was all that he meant at present. His omissions would be more than supplied by others who might enter into the discussion.

The proposition immediately before the Committee was, that the Treaty with Great Britain ought to be carried into effect by such provisions as depended on the House of Representatives. This was the point immediately in question. But it would be proper in examining it to keep in view also the proposition of the gentleman from Pennsylvania [Mr. MACLAY] which had been referred to the Committee, and which would be taken up of course, if the immediate question should be decided in the negative.

If the proposition for carrying the Treaty into effect be agreed to, it must be from one of three considerations: either that the Legislature is bound by a Constitutional necessity to pass the requisite laws without examining the merits of the Treaty, or that, on such examination, the Treaty is deemed in itself a good one, or that there are good extraneous reasons for putting it into force, although it be in itself a good one, or that there are good extraneous reasons for putting it into force, although it be in itself a bad Treaty.

The first consideration being excluded by the decision of the House, that they have a right to judge of the expediency or inexpediency of passing laws relative to Treaties; the question first to be examined must relate to the merits of the Treaty. He then proceeded to consider the Treaty under three aspects: first, as it related to the execution of the Treaty of Peace in 1783; secondly, as it determines the several points in the Law of Nations; thirdly, as it respects the commerce between the two nations.

First. He would not inquire on which side the blame lay, of having first violated the Treaty of 1783, or of having most contributed to delay its execution, although he did not shrink from the task under any apprehension that the result could be disadvantageous to this country. The Treaty

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itself had waived this inquiry, and professed to adjust all controversies on this subject, without regard to the mutual complaints or pretensions of the parties. It was, therefore, justly and naturally to be expected, that the arrangements for carrying that Treaty into effect would have been founded in the most exact and scrupulous reciprocity. Was this the case? He was sorry, that on the contrary the arrangements were founded on the grossest violation of that principle.

There were two articles which had not been executed by Great Britain; that which related to the negroes and other property carried away, and that which required a surrender of the posts. The article unexecuted by the United States was, that which required payment of all *bona fide* debts, according to the Treaty now in question: this article is now to be carried into the most complete effect by the United States, and damages to the last fraction are to be paid for the delay. Is there a reciprocal stipulation by Great Britain with respect to the articles unexecuted by her? Nothing like it. She is wholly absolved from the obligation to fulfil one of the articles, viz: that relating to the negroes, &c., and she is to make no compensation whatever for delaying to fulfil the other, viz: the surrender of the posts.

It had been urged in apology for those very unequal stipulations, that the injury resulting from a forbearance to surrender the posts, was not susceptible of any precise liquidation into pecuniary damages. However plausible this might appear, it was by no means satisfactory. Commissioners, such as were appointed, with full discretion for other purposes, might have been charged with this subject, and if they could not have done exact justice, might have mitigated the injustice of doing nothing.

Apologies had been attempted also for the very extraordinary abandonment of the compensation due for the negroes, &c. It was said to be at least doubtful whether this claim was authorized by the seventh article of the Treaty of Peace, and that Great Britain had uniformly denied the meaning put by the United States on that article. In reply he made two remarks. First, that it was not true that Great Britain had uniformly denied the American construction of that article; on the contrary, he believed, it could be proved, that till of late, Great Britain had uniformly admitted this construction, and had rejected the claim on no other ground than the alleged violation of the fourth article on the part of the United States.

But had it been true that Great Britain had uniformly asserted a different construction of the article, and refused to accede to ours, what ought to have been done? Ought we to have at once acceded to hers? By no means. Each party had an equal right to interpret the compact; and if they could not agree, they ought to have done in this what they did in other cases where they could not agree; that is, have referred the settlement of the meaning of the compact to an arbitration. To give up the claim altogether, was to admit, either that Great Britain had a better right

than the United States to explain the controverted point, or that the United States had done something which in justice called for a sacrifice of their equal right.

It was evident, he thought, from this view of the subject that the arrangements with respect to the Treaty of Peace were frequently wanting both in justice and reciprocity.

It would seem, from the face of the Treaty, and the order of the articles, that the compensation for the spoiliations on our trade had been combined with the execution of the Treaty of Peace; and might therefore have been viewed as a substitute for the compensation for the negroes, &c. If this was the meaning of the instrument, it could not be the less obnoxious to reasonable and fair judges. No man was more thoroughly convinced than himself of the perfect justice on which the claims of the merchants against Great Britain were founded, nor any one more desirous to see them fully indemnified. But compensation to them could never be a just substitute for the compensation due to others. It was impossible that any claims could be better founded than those of the sufferers under the seventh article of the Treaty of Peace; because they were supported by positive and acknowledged stipulation, as well as by equity and right. Just and strong as the claim of the merchants might be, and certainly were, the United States could not be obliged to take more care of them than of the claims equally just and strong of other citizens; much less to sacrifice to them the claims for property wrongfully carried off at the close of the war, and obtaining stipulations in favor of the mercantile claims, the mercantile claims had been relinquished, and the other claims provided for; he asked whether the complaints of the merchants would not have been as universal and as loud as they would have been just?

Besides the omission in favor of Great Britain, already pointed out with respect to the execution of the Treaty of Peace, he observed, that conditions were annexed to the partial execution of it in the surrender of the Western posts, which increased the general inequality of this part of the Treaty, and essentially affected the value of those objects.

The value of the posts of the United States was to be estimated by their influence. 1st, on the Indian trade; 2d, on the conduct and temper of the Indians towards the United States.

Their influence on the Indian trade depended principally on the exclusive command they gave to the several carrying places connected with the posts. These places were understood to be of such importance in this respect, that those who possessed them exclusively would have a monopoly, or nearly a monopoly, of the lucrative intercourse with a great part of the savage nations. Great Britain having hitherto possessed these places exclusively, has possessed this advantage. It was expected that the exclusive transfer of them would transfer the advantage to the United States. By the Treaty now concluded, the carrying places are to be enjoyed in common, and it

will be determined by the respective advantages under which British and American traders will engage in the trade, which of them is to share most in it. In this point of view he thought the regulation highly impolitic and injurious. He would say little of the advantage which the British would have in their superior capital: that must be encountered in all our commercial rivalships. But there was another consideration which ought to have great weight on this subject. The goods imported for the Indian trade through Canada pay no duties. Those imported through the United States for that trade, will have paid duties from seven to ten per cent., and every one must see that a drawback is impracticable, or would be attended with an expense which the business would not bear. So far, then, as the importance of the post is to be considered in a commercial view, they are, in a very great measure, stripped of it by the condition annexed to the surrender of them. Instead of a monopoly in our favor, the carrying places are made common under circumstances which may leave a monopoly in the hands of Great Britain. And this is done, too, by an article which is to last forever.

Second. The influence of the Indians, on the general conduct of the Indians, is well known to depend chiefly on their influence on the Indian trade. In proportion, therefore, as the condition annexed to the surrender of posts affects the one, it must affect the other. If the British should continue to enjoy the Indian trade, they would continue to influence the Indian conduct; if not in the same degree as heretofore, at least in so great a degree as to condemn the article in question.

He mentioned the permission to aliens to hold land in perpetuity as a very extraordinary feature in this part of the Treaty. He would not inquire how far this might be authorized by Constitutional principles. But he would continue to say, that no example of such a stipulation was to be found in any Treaty that ever was made, either where territory was ceded, or where it was acknowledged by one nation to another. Although it was common and right in such cases to make regulation in favor of the property of the inhabitants, yet he believed, that in every case that had ever happened, the owners of landed property were universally required to swear allegiance to the new sovereign, or to dispose of their landed property within a reasonable time.

He took notice also of the inequality of the stipulation which opened all the ports of the United States, as the condition of having those of an unimportant province of Great Britain opened in return.

With respect to the Mississippi he could not but consider the clause relating to it as being singularly reprehensible. Happily the adjustment of our claims with Spain had been brought about before any evil operation of the clause had been experienced. But the tendency of it, he thought, could not be doubted. It was the more remarkable, that this extension of the privileges of Great Britain on the Mississippi beyond those in the Treaty of Peace, should have been admitted into

the new Treaty, because it is supposed by the Treaty itself, that Great Britain may be deprived, by her real boundary, of all pretensions to a share in the banks and waters of the Mississippi.

Secondly. With respect to the great points in the Law of Nations, comprehended in the stipulations of the Treaty, the same want of real reciprocity, and the same sacrifice of the interests of the United States, were conspicuous.

It was well known to have been a great and favorite object with the United States, "that free ships make free goods." They have established this principle in all their other Treaties. They have witnessed with anxiety the general effort, and the successful advances towards incorporating this principle into the Law of Nations; a principle friendly to all neutral nations, and particularly interesting to the United States. He knew that at a former period it had been conceded on the part of the United States that the Law of Nations stood as the present Treaty regulates it. But it did not follow that more than acquiescence in that doctrine was proper. There was an evident distinction between silently acquiescing in it, and giving it the support of a formal and positive stipulation. The former was all that could have been required, and the latter was more than ought to have been unnecessarily yielded.

In the enumeration of contraband articles, the Treaty was liable to similar observations. The circumstances and interests of the United States had given way to the particular views of the other party. The example in all other Treaties has been disregarded. Hemp, tar, pitch, turpentine, &c., important staples of this country, are, without even a pretext of reciprocity, subjected to confiscation. No nation which produced these articles had, he believed, Treaties at present making the same sacrifice, except Denmark, who, in the year 1780, had been induced, he knew not by what means, into an explanation of the Treaty of 1670, by which these articles are declared to be contraband. He observed, that this supplementary and explanatory agreement between Great Britain and Denmark appeared to have been the model selected for the contraband list in the Treaty now in question. The enumeration in the latter was transcribed, word for word, from the former, with a single exception, which might be thought remarkable. The article of *horses*, which was included in the original, was dropped in the copy. In this particular the article had departed from *Vattel* also, although in general the Treaty seemed to have availed itself wherever it readily could of his authority.

But, what was far more remarkable, the copy had proceeded just as far as answered the purposes of Great Britain, and stopped at the very point where the original would have answered the just and essential purposes of the United States. After enumerating the articles to be deemed contraband, the Danish article goes on in the words following, viz: "But it is expressly declared that among contraband merchandises shall not be comprehended fish and meats, whether fresh or salted,

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wheat, flour, corn, or other grain, beans, oil, wine, and generally whatever serves for the nourishment and support of life, all of which may at all times be sold and transported like any other merchandises, even to places held by an enemy of the two Crowns, provided they be not besieged or blockaded."

This view of the subject naturally led him to take notice of the clause in the British Treaty relating to provisions; which, to say the least, wore an ambiguous countenance that was extremely disagreeable, or which rather seemed to carry a necessary implication that provision, though not bound to besieged or blockaded places, might, according to the existing Law of Nations, be regarded as contraband. According to the genuine Law of Nations, no articles which are not expressly and generally contraband, are so, except in the single case of their going to a besieged place; yet it is admitted in the Treaty that there are other cases when provisions may be contraband, whence the implication results, that one of the cases might be that which had been assumed and put in force by Great Britain in relation to the United States. The little cases which might be devised as appurtenant to the law which condemns what is bound to blockaded places, cannot satisfy the import of the stipulation, because such cases cannot be presumed to have been in the contemplation of the parties. And if the particular case of provisions bound to a country at war, although not to a besieged place, was not meant to be one of the cases of contraband, according to the existing Law of Nations, how necessary was it to have said so; and how easy and natural would that course have been, with the Danish example on the subject before their eyes.

On the supposition that provisions in our own vessels bound to countries at war with Great Britain, can be now seized by her for her own use, on the condition stipulated, this feature of the Treaty presents itself in a very serious light, indeed, especially if the doctrine be resorted to as laid down by the Executive, in the letter of the then Secretary of State [Mr. JEFFERSON] to Mr. PINCKNEY, on the 7th September, 1793. This letter is a comment on the British instructions of June 8, 1793, for seizing neutral provisions. After stating the measure as a flagrant breach of the Law of Nations, and as ruinous to our commerce and agriculture, it has the following paragraph: "This act, too, tends directly to draw us from that state of peace in which we are wishing to remain. It is an essential character of neutrality to furnish no aids not stipulated by Treaty," that is, said Mr. M., by a Treaty made before the war, "to one party which we are not equally ready to furnish to the other. If we permit corn to be sent to Great Britain and her friends, we are equally bound to permit it to France. To restrain it, would be a partiality which must lead to war; and between restraining it ourselves and permitting her enemies to restrain it unrightfully is no difference. She would consider this as a mere pretext, of which she would not be the dupe; and on what honorable ground could we otherwise ex-

plain it? Thus we should see ourselves plunged, by this unauthorized act of Great Britain, into a war with which we meddle not, and which we wish to avoid, if justice to all parties and from all parties will enable us to avoid it." He entreated the Committee to bestow on this interesting Executive document all the attention which it demanded.

The articles prohibiting sequestration were next considered by Mr. M. He said he should probably be among the last who would be disposed to resort to such an expedient for redress. But he could not approve of a perpetual and irrecoverable abandonment of a defensive weapon, the existence of which might render the use of it unnecessary. The situation of this country in relation to Great Britain was a peculiar one. As we had not fleets and armies to command a respect for our rights, we ought to keep in our hands all such means as our situation gave us. This article was another instance in which no regard was paid to reciprocity. British subjects, it was well known, had and were likely to have in this country a great deal of the property of the King made sacred. American citizens, it was as well known, had little, and were likely to have little of the kind in Great Britain. If a real reciprocity had been intended, why were not other kinds of private property, as vessels and their cargoes, equally protected against violation? These, even within the jurisdiction of Great Britain, are left open to seizure and sequestration, if Great Britain finds it expedient. And why was not property on the high seas under the protection of the Law of Nations, which is said to be a part of the law of the land, made secure by a like stipulation? This would have given a face of equality and reciprocity to the bargain. But nothing of the sort makes a part of it; where Great Britain had a particular interest at stake, the Treaty watchfully provides for it; when the United States have an equal interest at stake and equally entitled to protection, it is abandoned to all the dangers which it has experienced.

After taking this brief notice of the positive evils in this part of the Treaty, he might, he said, add the various omissions which were chargeable on it. But as he should not pretend to exhaust the subject, he would mention one only: the not providing for the respect due to the exhibition of sea papers. He could not but regard this omission as truly extraordinary, when he observed that in almost every modern Treaty, and particularly all our other Treaties, an article on this subject was regularly inserted. Indeed, it had become almost an article of course in the Treaties of the present century.

Thirdly. The commercial articles of the Treaty presented the third aspect under which he was to consider it. In the free intercourse stipulated between the United States and Great Britain, it could not be pretended that any advantage was gained by the former. A Treaty was surely not necessary to induce Great Britain to receive our raw materials and to sell us her manufactures. On

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the other hand, consider what was given up by the United States.

When the Government came into operation, it is well known that the American tonnage employed in the British trade bore the most inconsiderable proportion to the British tonnage. There being nothing on our side to counteract the influence of capital and other circumstances on the British side, that disproportion was the natural state of things. As some balance to the British advantages, and particularly that of her capital, our laws had made several regulations in favor of our shipping, among which was the important encouragement resulting from the difference of ten per cent. in the duties paid by American and foreign vessels. Under this encouragement the American tonnage has increased in a very respectable proportion to the British tonnage. Nor has Great Britain ever deemed it prudent to attempt any countervailing measures for her shipping, well knowing that we could easily keep up the differences by further measures on our side. But by the Treaty, she has reserved to herself the right to take such countervailing measures against our existing regulations; and we have surrendered our rights to pursue further defensive measures against the influence of her capital. It is justly to be apprehended, therefore, that under such a restoration of the former state of things, the American tonnage will relapse to its former disproportion to the British tonnage.

When he turned his attention to the West India branch of the subject, there was still greater cause for wonder and dissatisfaction. As the Treaty now stood, Great Britain was left as free as she ever had been to continue the entire monopoly of the intercourse to British vessels. Recollecting, as he did, and as every member of the Committee must do, the whole history of this subject from the peace of 1783, through every subsequent stage of our Independence down to the mission of the late Envoy, it was impossible for him to express his astonishment that any Treaty of Commerce should have ever been acceded to which abandoned the very object for which such a Treaty was ever contemplated. He never could have believed that the time was so near when all the principles, claims, and calculations, which have heretofore prevailed among all classes of people, in every part of the Union, on this interesting point, were to be so completely renounced. A Treaty of Commerce with Great Britain, excluding a reciprocity for our vessels in the West India trade, is a phenomenon which had filled him with more surprise than he knew how to express.

He might be told, perhaps, 1st. That Great Britain granted to no other nation the privilege granted to the United States of trading at all with her West Indies; and, 2dly. That this was an important relaxation of the Colony system established among the nations of Europe.

To the first, it was enough to reply, that no other nation bore the same relation to the West Indies, as the United States were essential to those Islands; and the trade with them had been per-

mitted purely on that account, and not as a beneficial privilege to the United States.

To the second, that it was not true that the Colony system required an exclusion of foreign vessels from the carrying trade between the Colonies and foreign countries. On the contrary, the principle and practice of the Colony system were to prohibit, as much as would be convenient, all trade between the Colonies and foreign countries; but when such a trade was permitted at all as necessary for the Colonies, then to allow the vessels of such foreign countries a reciprocal right of being employed in the trade. Great Britain had accordingly restrained the trade of her Islands in this country as far as her interest in them would permit. But had she allowed our vessels their reciprocal right to carry on the trade so far as it was not restrained? No. Here she forced a monopoly in her own favor, contrary to justice, and contrary to the Colony system of every European nation having Colonies; which, without a single exception, never opens a trade between their Colonies and other countries without opening it equally to vessels on both sides. This is evidently nothing more than right and fair. A Colony is a part of an Empire. If a nation choose, they may prohibit all trade between a Colony and a foreign country, as they may between any other part of their dominions and a foreign country. But if they permit such a trade at all, it must be free to vessels on both sides as well in the case of Colonies as of any other parts of their dominions. Great Britain has the same right to prohibit foreign trade between London and the United States as between Jamaica and the United States; but if no such prohibition be made with respect to either, she is equally bound to allow foreign vessels a common right with her own in both. If Great Britain were to say that no trade whatever should be carried on between London and the United States, she would exercise a right which we could not complain of. If she were to say that no American vessel should be employed in the trade, it would produce just complaint, and justify a reciprocal regulation as to her vessels. The case of the trade from a port in the West Indies is precisely similar.

To place the omission of the Treaty to provide a reciprocity for our vessels in the West India trade in its true light, it would be proper to attend to another part of the Treaty, which tied up the hands of this country against every effort for making it the interest of Great Britain to yield to our reasonable claims.

He then pointed to the clause which restrains the United States from imposing prohibitions or duties in any case on Britain which did not extend to all other nations; observing that the clause made it impossible to operate on the unreasonable policy of that nation, without suspending our commerce at the same time with all other nations whose regulations with respect to us might be ever so favorable and satisfactory.

The fifteenth article had another extraordinary feature, which must strike every observer. In other Treaties, putting the parties on the footing

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of the most favored nation, it was stipulated that where new favors were granted to a particular nation in return for favors received, the party claiming the new favor should pay the price of it. This was just and proper where the footing of the most favored nation is established at all. But this article gives to Great Britain the full benefit of all privileges that may be granted to any other nation, without requiring from her the same or equivalent privileges with those granted by such nation. Hence it would happen that if Spain, Portugal, or France, should open their Colonial ports to the United States in consideration of certain privileges in our trade, the same privileges would result gratis, and *ipso facto*, to Great Britain. He considered this stipulation as peculiarly impolitic, and that it could not fail, in the view of the Committee, to form a very solid and weighty objection to the Treaty.

He was not unaware of the stress that would be laid on the article relating to the East Indies. He should leave to others better acquainted than himself with this branch of the subject to explain it. He made two observations, however: one was, that judicious and well informed gentlemen, equally judicious and well informed with any who could be consulted, considered the article as offering not a shadow of advantage to the United States. The other was, that no privilege was stipulated which had not been uniformly heretofore granted without stipulation; and as the grant could have proceeded from no motive but a pure regard to the British interest in that country, there was every reasonable security that the trade would continue open as it had been, under the influence of the same consideration.

Such being the character of the Treaty, with respect to the execution of the Treaty of Peace, the great principles of the Law of Nations, and the regulations of commerce, it never could be viewed as having any claim to be carried into effect on its own account.

Was there, then, any considerations extraneous to the Treaty that could furnish the requisite motives? On this subject, he observed that the House was wholly without information. And for himself he was ready to declare that he had neither seen, nor known, nor heard, of any circumstances in the general posture of things, or in the particular relation of this country to them, that could account for the unequal and injurious arrangements which we were now called upon for laws to execute.

But there was something farther to be taken into the account. The continuance of the spoliations on our trade, and the impressment of our seamen, whether, as stated in the motion of the gentleman from Pennsylvania, [Mr. MacLay,] to be understood as practical comments on the Treaty, or as infractions of it, could not but enforce on the minds of the Committee the most serious reflections. Here he referred again to the passage he had read in the letter from Mr. Jefferson to Mr. Pinckney, and asked, if, as there stated by the Executive, our neutrality and peace were to be exposed, by permitting practices of that kind,

what might be thought of our giving effect, in the midst of such practices, to a Treaty from which a countenance might be derived by the nation for going on with them.

He was aware that the Executive, notwithstanding the doctrine and policy laid down as above, had finally concurred in the Treaty under such circumstances. But he did not consider that as invalidating the reasoning drawn from the present state of things. He might, he said, be stepping on delicate ground, but he could not think it improper to remark, that it was a known fact that the Executive actually paused for some weeks after the concurrence of the Senate, before the Treaty received his signature; that it is fairly to be presumed that a renewal of the spoliations, and a recollection of the light in which they had been represented, were a ground of the pause; that on that supposition he was probably influenced in signing the Treaty when he did, by an expectation that such a mark of confidence in the British Government would produce an abolition of the unlawful proceeding, and, consequently, if it had been foreseen that the spoliations would have been continued as we find them to be, the Treaty would not have been then signed, or if it had not then been signed, it would not be signed, under the circumstances of the moment when it falls under our consideration.

He should conclude, he said, with taking notice of two considerations which had been much used as inducements to carrying the Treaty into effect.

1. It was said that the greater part of the Treaty was to continue two years only after the present war in Europe; and that no very great evils could grow out of it within that period. To this he replied, in the first place, that ten of the articles containing many very objectionable stipulations were perpetual. In the next place, that it would be in the power of Great Britain, at the expiration of the other articles, to produce the same causes for a renewal of them, as are now urged in their favor. If we are now to enforce the Treaty, lest Great Britain should stir up the Indians, and refuse to pay the merchants for the property of which she has plundered them, can she not at the end of two or three years plunder them again to the same or a greater amount? cannot the same apprehensions also be then revived with respect to the Indians, and will not the arguments then be as strong as they are now, for renewing the same Treaty, or making any other equal sacrifice that her purposes may dictate?

2. It was asked, what would be the consequence of refusing to carry the Treaty into effect? He answered, that the only supposable consequence was, that the Executive, if governed by the prudence and patriotism, which he did not doubt would govern that department, would, of course, pursue the measures most likely to obtain a reconsideration and remodification of the offensive parts of the Treaty. The idea of war, as a consequence of refusing to give effect to the treaty, was too visionary and incredible to be admitted into the question. No man would say that the United States, if an independent people, had not

a right to judge of their own interests, and to decline any Treaty that did not duly provide for them. A refusal, therefore, in such cases, could give no cause, nor pretext, nor provocation, for war or for any just resentment. But apart from this, was it conceivable that Great Britain, with all the dangers and embarrassments which are thickening upon her, would wantonly make war on a country which was the best market she had in the world for her manufactures, which paid her an annual balance in specie of ten or twelve millions of dollars, and whose supplies were moreover essential to an important part of her dominions? Such a degree of infatuation ought not to be ascribed to any nation. And at the present crisis, for reasons well known, an unprovoked war with Great Britain, on this country, would argue a degree of madness greater than under any other circumstances that could well be imagined.

With all the objections therefore to the Treaty which he had stated, he hoped that it would not now be carried into effect; and that an opportunity would take place for reconsidering the subject on principles more just and more favorable to the United States.

When Mr. MADISON had concluded,

Mr. S. LYMAN rose.—I do not rise, said Mr. L., with an intention to go into a detail upon this subject, or to exhibit a comparative view of the advantages and disadvantages which may attend the operation of the Treaty, but only to make a few remarks, which may be considered as preparatory to a more minute discussion.

I verily believe the great body of the people in Massachusetts, who have paid any attention to this Treaty, are pretty well satisfied with it. This satisfaction arises, not altogether from a thorough knowledge of the constituent parts of the Treaty, and of its probable consequences, but from a full confidence in the integrity and discernment of the supreme Executive and of the Senate, who, on those occasions, act as his advisory council. This confidence and satisfaction is daily increased and confirmed by the known opinions of the commercial part of the citizens of the United States, who are more immediately interested in the operations of this Treaty.

Although I believe a discussion of this Treaty is not strictly in order, because it does not come before us immediately as a subject of debate and legislation, but as a piece of information from the Executive, yet I have no doubt but that a thorough discussion of its principles may produce a happy effect; for I believe the more it is understood, the less various will be our sentiments, the greater the degree of unanimity among ourselves, so much the greater will be the unanimity among our constituents. This unanimity is an object of the greatest magnitude, not only as the source of national respectability and honor, but as the only true source of national happiness and prosperity; it is therefore the indispenable duty of Government to maintain internal peace and tranquility, and upon this ground alone it is I am willing the Treaty should be thoroughly discussed. I am sensible this Treaty presents itself with an un-

favorable aspect, and what is the reason? Is it not because we have entertained too exalted ideas of our own national importance? A generous and noble pride we ought to entertain as a nation, and without this pride we should be guilty of ingratitude to Heaven, for Providence has placed within our reach all the resources of national strength and greatness, but we are yet among the nations in a state of minority—a minor must solicit favors, he cannot challenge them. Did we go to the Emperor of Morocco, or to the Dey of Algiers, and challenge a passage for our ships up the Mediterranean? No; but we solicited, and pay dear for that passage; or did we go to the King of Spain, and demand a free navigation of the Mississippi? No; but we negotiated, and success has attended that negotiation; or could we have gone to the King of England, and challenged a participation with his subjects in the commerce of the East and West Indies? Certainly we could not. What then should we have done? Would it have been best to have traded with them upon sufferance, and so to have maintained a precarious kind of commerce? Certainly this would not have done, for in that case we should have been constantly dependant upon the caprice of a capricious Court; this would be extremely mortifying indeed. Commerce, like all other kind of business, ought to be carried on upon generous and open principles, otherwise we establish a system of deceit that would be favorable to pirates and freebooters.

Under those circumstances what could we have done? We could not have carved for ourselves, for our strength and greatness were not sufficient; we therefore had to go with the modesty of a minor, and to solicit; and what was the natural consequences of this solicitation? Why, at the first interview with the British Minister, he determined to exact of us at least a complete fulfilment of all that a former Treaty required; and what was that? It was a payment of our *bona fide* debts? what could we do? He produced our contract, and we said nothing; moral rectitude required a fulfilment of this; it was in vain to say, you have interrupted our commerce, you have carried off our negroes, you have retained the Western posts, and thereby occasioned an expensive and bloody war with the Indians. Some of this language, perhaps, would have had weight with the British Minister, if he had been acting in his private capacity, but he felt and acted like the Minister of a great and powerful nation; interest and glory are their objects, and moral considerations are too apt to vanish before these. It is true, by the Law of Nature, commerce ought to be free and uninterrupted, but by the Law of Nations it is otherwise; and what nation shall gainsay this law? We certainly cannot, our strength and greatness are not yet fully ripe, and if they were we should, in practice, deny this Law of Nature, and should ratify and confirm this Law of Nations. Thus, Mr. Chairman, we see that interest and force govern among the nations. I have made these preliminary observations in order that we might contemplate the Treaty upon

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its true ground, for a want of reciprocity has been a heavy charge brought against it.

I have read this Treaty with care and attention, and I am free to own that upon the first perusal of it I had a prejudice against it; it appeared to me that some of its stipulations were too favorable for Britain, and too disadvantageous to ourselves; but we certainly had an able negotiator, and I verily believe he did his utmost to serve his country; the more I have attended to the subject the more I am reconciled to it. I find the gentlemen who are interested in commerce are almost universally satisfied with the commercial regulations; but there is a more weighty charge brought against it than of a want of reciprocity; it is even said by some to be unconstitutional. This is a heavy charge indeed, and if it is well founded we ought to prevent its operation, for we are sent here as the guardians of the rights of our fellow-citizens, and for that purpose are sworn to support their Constitution; if it is unconstitutional, it is a nullity; it is not binding upon the nation; we ought to reject it; but if it is Constitutional, and not extremely pernicious, it becomes the supreme law of the land, and we are in that case bound to obey it.

I have no doubt of its constitutionality, notwithstanding all the arguments which I have either seen or heard. Many arguments might be adduced in support of this opinion, but I will dispense with all but one, and that I consider as conclusive; and that is this, the stipulations in this Treaty are nearly all of such a nature as not to respect objects of legislation; they respect objects which lay beyond the bounds of our sovereignty, and beyond these limits our laws cannot extend as rules to regulate the conduct of subjects of foreign Powers, and although some of these stipulations respect objects which are within the reach of our sovereignty, yet it is in such a manner as to be not only pertinent, but perhaps absolutely necessary in forming the Treaty.

This conclusion I think is the natural and necessary result of a fair construction of the principles of the Constitution, and especially of that paragraph which vests the power of making Treaties in the supreme Executive with the advice of the Senate. It is true, Mr. Chairman, we have a diversity of opinions on this subject, but what ought to be our conduct on this occasion? Ought we not to manifest a spirit of candor and mutual forbearance? Party spirit and animosity are not only inconsistent with the dignity of this House, but they are dishonorable to our nation; it is true a little zeal will naturally arise where there is a serious conflict of sentiments and opinions; we all feel it; the advocates for and against the Treaty are all, in some degree, under its influence. Zeal or enthusiasm is as contagious as the small-pox, or any other cutaneous disease; it therefore behoves us that our zeal be according to knowledge, otherwise we may propagate a malignant and mortal kind, which shall become epidemic and rage beyond the walls of the House; therefore, I say, what ought to be our conduct on this occasion? and in what does consist sound and en-

lightened policy? What would be the consequence if a majority of this House should manifest a disposition not to carry the Treaty into effect? The consequence would be, we should lose all the benefits secured to us by it, and there are some pretty important ones. Britain would undoubtedly retain the Western posts—she would consider them as a good collateral security; and they are, in fact, like the Temple of Janus, the power that possesses them may either open or shut the gates of war—he at peace or at war with the Indians. Does good policy consist in severe animadversion upon this Treaty? Does it consist in loud and vociferous debate, calculated to inflame public resentment, and to excite the fearful apprehensions of our fellow-citizens? or, does it consist in the reverse of all this? Certainly I think it does, for is there any substantial ground of alarm? Has the PRESIDENT of the UNITED STATES, after twenty years of patriotism, become a traitor? or, has a majority of our Senate been corrupted with British gold?

If these are facts, then I confess our fairest hopes are extinguished; if these are facts, then sound the alarm, not only upon the seacoast, but ring the tocsin, and let it be heard from St. Mary's to Detroit, and then whole hosts of armed men will arise and avenge the cause of our country; but thank God there is no occasion for all this, only let us dissipate the storm, and restore public tranquility; this is our duty, and this duty is enforced and commanded by every sentiment of a moral, of a religious, or of a political nature.

When Mr. LYMAN had taken his seat,

Mr. SWANWICK addressed the Chair:—One of the most characteristic and strong points of difference that exists between republican and despotic forms of Government, said Mr. S., consists in their greater or lesser degree of haste in making or adopting laws. Where the will of a despot is the only law, his simple volition is sufficient to call for the prompt obedience of the subject; but in our happy Government, the numerous checks and balances it prescribes every where oppose themselves to haste, to error, or inadvertency, in the formation of laws. In acts of the smallest importance, we see daily that after they have undergone every possible chance of fair and impartial discussion in this House, they are transmitted to another, who equally proceed to revise, correct, and amend them; and even this not being deemed sufficient to secure, as it were, against all possibility of danger, they are sent to the PRESIDENT, who has ten days to consider, and who may return them with his objections. These we are bound respectfully to inscribe on our Journals; and if we disagree in opinion with the PRESIDENT, the majority of two-thirds of both branches is requisite to give validity to the law. Do not we discover in all this infinite caution, and a wish rather not to act at all, by the difference of the branches among each other, than to act imprudently or precipitantly; and can we imagine that a Constitution thus guarded with respect to laws of little consequence, hath left without a check the immense power of making Treaties, embrac-

ing, as in the instrument before us, all our greatest interests, whether they may be of territory, of agriculture, commerce, navigation, or manufacture, and this for an indefinite length of time? No. By one of the guards of that Constitution relative to appropriations of money, this Treaty hath, in the last stage of its progress, come before us; we have resolved according to our best judgment of the Constitution, and, as we have seen above, according to the meaning and spirit of it, that we have a right to judge of the expediency or in expediency of carrying it into effect. This will depend on its merits; and this is the discussion now before us. If, in the event we shall be found to differ in opinion with the other branches as to this subject, it will involve no more animosity or crimination against them than if we differed as to an ordinary law. To what purpose then to sound the alarm, and to ring the tocsin from Georgia to New Hampshire? Do we impeach the Executive? Do we charge bribery or corruption? No, sir.

We venerate, as much as any body else, the gallant hero who fills with so much dignity the Chair of State. We respect the Senators, as having acted according to the best of their judgments. The question is, not what they have done, but what we are to do. Our duty requires of us, before we vote \$90,000 of the people's money—the sum required to carry the Treaty into effect—to pause, and inquire as to the why and wherefore? But is it merely the sum of \$90,000, that is in question? If it was, we ought to proceed slowly and cautiously to vote away the money of our constituents; but it is in truth a sum indefinite, for British debts, the amount of which we know not; and we are to grant this in the moment our Treasury is empty, when we are called upon to pay five millions to the Bank, and when no gentleman hath resources to suggest but those of borrowing, at a time when borrowing is unusually difficult and expensive. But is it merely a question of money? No. It is the regulation of our commerce; the adjustment of our limits; the restraint, in many respects, of our own faculties of obtaining good, or of avoiding bad, terms with other nations. In short, it is all our greatest and most interesting concerns that are more or less involved in this question. I am aware the task is arduous, especially for those who are in the opposition to the Treaty, because they have to place their opinions in contradiction to those of many wise and virtuous and dignified men amongst us; and this, at all times an unpleasant task, becomes doubly painful when it is to be done in a moment when great alarm is excited very industriously in the public mind. But a legislator, when he undertakes to act at all, must dare to act firmly, when he acts according to the best of his judgment, for the good of his country. The President has been thus applauded for his firmness. I hope this House, where they conceive themselves right, will not display less of it than the Executive. It must receive equal applause wherever there are dispassionate and candid observers.

These preliminary remarks I have thought es-

sential, previously to going into a consideration of the merits of the Treaty itself, which hath already been so ably considered by the gentleman last up from Virginia, [Mr. MADISON,] whose mildness of manner and suavity of address were certainly calculated to inspire any thing else than the angry passions so greatly deprecated by the gentleman from Massachusetts, [Mr. S. LYMAN.] These, I hope, will be carefully avoided on all sides, and the debate be concluded with the same good temper and moderation in which it is begun.

I must confess, Mr. Chairman, that the first point of view in which this Treaty struck me with surprise was, the attitude Great Britain assumes in it of dictating laws and usages of reception and conduct different towards us, in every different parcel of her empire, while the surface of our country is entirely laid open to her in one general and advantageous point of admission. In Europe, we are told we may freely enter her ports. In the West Indies, we were to sail in canoes of seventy tons burden. In the East Indies we are not to settle or reside without leave of the local Government. In the seaports of Canada and Nova Scotia, we are not to be admitted at all; while all our rivers and countries are opened without the least reserve; yet surely our all was as dear to us as the all of any other nation, and not to have been parted with but on equivalent terms.

But let us consider the articles distinctly:—first, as to the Mississippi; Great Britain is admitted as freely to navigate on this river, and to frequent the ports on its banks, as we are to go to those on the Thames; yet, it is strange to remark, that, at the time we made the stipulation, we had not ourselves obtained the right we gave. We have since obtained it by Treaty with Spain, and on terms absolutely contradictory to those contained in the British Treaty. The articles are as follows, and the Committee are left to judge for themselves. After they had just voted for the Spanish article, how can they, in good faith and consistency, vote for the British article, so contradictory to it?

The Spanish article is this—Article 4:

"It is likewise agreed that the Western boundary of the United States, which separates them from the Spanish colony of Louisiana, is in the middle of the channel or bed of the river Mississippi, from the Northern boundary of the State to the completion of the 31st degree of latitude north of the Equator. And His Catholic Majesty has likewise agreed that the navigation of the said river, in its whole breadth from its source to the ocean, shall be free *only* to his subjects and the citizens of the United States, unless he should extend this privilege to the subjects of other Powers by special convention."

British Treaty—Article 3.

"The river Mississippi shall, however, according to the Treaty of Peace, be entirely open to both parties; and it is further agreed, that all the ports and places in its Eastern side, to whichever of the parties belonging, may freely be resorted to and used by both parties, in as ample a manner as any of the Atlantic ports or places of the United States, or any of the ports or places of His Majesty in Great Britain."

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The next of the permanent articles I shall notice, is that which respects British debts. It is somewhat remarkable, that the Commissioners, who are to judge of these, are permitted the power of adjournment from place to place—a very favorable stipulation for the creditors, whilst the Commissioners on Spoliations, by Article 7, are to act only in London, whereby the American claimant must pass with his papers, or send them across the Atlantic, and engage lawyers in a country where law is unusually dear; a circumstance which will deter many from applying at all, and occasion great loss to the United States. I observe, too, that the awards of the Commissioners of British debts are to be paid out of the Treasury as awarded by the Commissioners. I am surprised not to find in the Report of the Secretary of State, on appropriations to carry this Treaty into effect, some calculation as to the probable amount of these debts, or some provision for lodging, for this purpose, money in the Treasury. Gentlemen would then have known the extent to which they were going; but, at present, they can form no judgment on the subject of the money wanted, or of the funds from whence that money is to come.

Much hath been said about the tenth article, relative to the sequestration of debts. To be against the adoption of this article, hath been supposed to imply an unwillingness to pay debts lawfully contracted, and very copious abuse hath been thrown on the largest and most populous State in this Union, as having for motive of its opposition, this principle. To say nothing of the degrading nature of such an admission, with respect to the honor of our own country, which ought always to induce us to think the most favorable of it, is it true? Is it true, that an unwillingness to pay debts hath been the principal cause of opposition to this Treaty? Among the names opposed to it, are to be found some as respectable for independence and fortune as any on the Continent. To instance only one of a number. I may cite the celebrated Pennsylvania farmer, John Dickenson, Esq., one of the richest men in these parts of the country, attached to no party, living in great retirement, with a name honorable for the most virtuous efforts in the American Revolution. Can it be supposed that such a character as this is influenced by such a motive? Surely not. Whence arises, then, the opposition? It arises from a conviction that the admission of this article is degrading to the national character. During a late session of Congress an honorable member from New Jersey, [Mr. DAYTON, the present Speaker] fired by a laudable indignation at the robberies committed on our commerce by the British, moved for a provisional sequestration of their property. No sooner was this done, than we saw a report from the Secretary of the Treasury, dated the 16th of January, 1795, recommending the United States to pass a permanent law against sequestration of property in the funds. Congress not having acted on this part of the report, though they adopted other parts, we now see the clause attempted to be brought into a law by way of a

Treaty. And it is more singular, as, at the very time the article was agreed to in England, all the European nations were actually sequestering the property of each other. What security had we, then, that in any future time Great Britain would respect, in regard to us, what she did not in regard to France or Holland? Besides, is it not observable that, as we have no fleets, we have continually an immense property afloat, subject at any time to be laid hold of by Great Britain? And are we so superfluously strong that we ought, by compact, to relinquish this safeguard, this guarantee which we hold in our own hands? I have often heard the Chinese policy, as to maritime affairs, recommended, but I have never heard much said of another part of their policy. The British East India Company, in a late discussion that took place with the British Government, as to a renewal of their charter, observe as a reason why no British subject ought to be permitted to go to China but those under sureties for their good behavior to the Company; that, in case of failure in this, the Chinese hold all their property in the country as hostage. The expressions are these:

“The fear of punishment entertained by the Mandarines upon some occasions is excessive; and, indeed, the Court of Peking are disposed to think there can be no broil or disturbance without the fault of the Mandarin or officer, who is sometimes doomed to banishment or death for very trivial causes. Upon the slightest occasion the European commerce is stopped, as the Mandarines well know that this is the only means by which they can command obedience from Europeans.

“In the year 1784, by the accidental discharge of a gun on board of the *Lady Hughes*, country ship, a Chinese was killed. Every European was deemed responsible for this accident; all trade was stopped, and the foreign factories settled at Canton, uniting with the English, thought it necessary to prepare for defence. The gunner, who had concealed himself, was at last found, and delivered up, under some indirect assurances of personal safety, notwithstanding which he was immediately put to death. It is probable that the supercargoes and the gunners were deceived under the expectation of being able to commute his punishment for a sum of money, but a different conduct may prevail hereafter. The Chinese Government is not only absolute in the extreme, but inflexible. It may, therefore, be proper to take a view of the consequences to be apprehended from a stoppage of the country's trade, to which they are liable, from the supposed guilt or the misadventure of any British subject, and from which the Company have already sustained very material injury. Your committee, however, in expressing their apprehensions, do not allude to the crews of ships employed in the Company's service, whose owners are respectable and responsible, and whose officers have so much knowledge and experience, that no fears can exist with respect to their conduct.

“If any injury shall be done to the natives, the Company can easily support the expense, and command obedience from their servants, but the case is totally different with regard to individuals.

“It will be to represent the consequences of such a misfortune in a very limited degree, if the amount of property at the mercy of the Chinese, for a single season, is stated. As that is so large, it may be deemed unnecessary to extend the inquiry much further on this

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head, or it is presumed the estimate might be nearly doubled.

"The balance of the Company's cash at the end of the season has exceeded £500,000	
"Suppose only	£400,000
"The Company's investment, although it may have been much larger, may be estimated at	1,400,000
"The Company's ships from Europe, at least	400,000
"At the mercy of the Chinese for a single season	2,200,000

"Exclusive of country ships, and consequences which your committee conceive it is unnecessary to detail.

"With such an immense property at stake, it may be easily imagined that the apprehensions of the Company, with regard to the China commerce, are extreme; and, indeed, they have been severely injured by private traders, who are under no effectual control."

Do we stand less in need than the Chinese of cautionary hostages? Or can it be supposed that Britain will the less trade with us than with the Chinese, under these conditions? This tenth article, it may be added, is not to be found in our Treaties with any other nation; and yet it may be asked, do we not mean to act equally honorable with all? After all, it may be well questioned, why this tenth article? As a restraint upon this Government, it was impolitic, injurious, and unnecessary. There was no reciprocity in it, as we had little or no property in Britain to reckon on as a countervailing security. It looks, indeed, like a pointed reflection on those who acted in the Congress of 1794, on the sequestration business; and, insomuch, it was unkind, and I think uncandid; and as this article takes away the right of exercising one of the powers held by all people for their own security, I cannot but think that we must conceive it as entirely inadmissible. But, it may be said it is essential to credit. I am far from thinking so. Credit depends on profit, and on the necessity of employing capital. We shall be neither more nor less trusted on account of the tenth article. We do not see it affects our trade with other nations, or our credit there, that have no such articles with them. Other nations have not required it of us, why then should Great Britain, unless, indeed, she conceived it as necessary to secure her in the safe depredations intended in future to be still continued upon us?

After having thus reviewed the first ten or permanent articles, I think it must appear obvious that the result is, that we have ceded the right to navigate the Mississippi on terms different to those on which we received it from Spain; that we have consented to receive the Western posts on terms that afford too much danger of disturbances by a mixed intercourse of our people, British subjects and Indians; that we have provided, certainly, for an indefinite amount of British debts; whilst our claim for spoiliations is left to be decided by Commissioners at London, who meet without power of adjournment, and under very extensive latitude of judging according to what

may appear to them to be the Law of Nations, in a country where that law has been twisted so as always to serve as a pretext for spoiliations against us; and we have agreed never, in future, to consent to sequestrations or confiscations, in case, by war or national difference, our property afloat should be confiscated or sequestered by Great Britain to any amount. Let any impartial mind, then, judge of the expediency, on our part, of voting efficacy to so ruinous a contract.

I come now to consider the remaining articles of a more temporary nature. The 12th article merits consideration, because, though not included in the general arrangement as ratified, being only suspended, its principles are not wholly abandoned, but left, like a cloud, still to hang over us. This 12th article was intended to regulate our intercourse with the British West Indies, and contemplated the singular provision that we should only navigate thither in vessels of seventy tons burden, whilst the British themselves might put in the employ vessels of any size. How degrading such a stipulation, it is not difficult to conceive! We supply these islands with what the inhabitants have always acknowledged they could get so well no where else, and yet our tonnage is to be thus restricted, while theirs is left open to employ vessels of any description. But this is not all: for the sake of getting admission into a few inconsiderable British ports in the West Indies, we are to give up the carriage in our own shipping of cotton, one of our own staple articles, and of sugar, coffee, and indigo, the produce of the French, Spanish, Danish, Swedish, or Dutch islands. How strange a mistake as to the geography of this Western Archipelago, in which the carriage of the produce of St. Domingo alone is worth more nearly than the entire admission to all the other islands put together! The principle contained in this 12th article, thus suspended, ought to have been utterly contradicted or annulled. While existing even in its suspended form, it will prevent my voting for this Treaty, of whose chains it is only an absent link. By its absence, indeed, the trade of the British West Indies would have remained entirely shut to us, but for the war and the need they stand in of us. So we are left between the conditions of being shut out all together, or of being admitted at a price that takes away the value of the admission. This 12th article contains two of the most fatal principles that could ever be offered to America: the first is an attempt to prohibit an article of her own growth from being shipped in her own vessels; the next is an admission that foreign ships may load in our ports what our own ships may not load. This is laying the axe at once to the root of both commerce and agriculture. What a strange stipulation is it also for Britain to make with us, since it operates a benefit even to what she calls her natural enemies, the French, at our expense; for a French ship might load here what our ships could not. Does not this show her object is to ruin our navigation altogether? This article was to last during the war, and two years afterwards; the very time when, according to all

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probability, our trade in sugar, coffee, &c. to Europe would turn out the most lucrative and extensive; for, whoever is acquainted with the history of our commerce for the few last years, must know that in fact the richest part of it hath consisted in the freight and commissions earned by our merchants on the carriage of the sugar, coffee, cotton, and indigo, of the possessions of the belligerent Powers. When they are at war, which happens every ten years nearly, this must be the case; and shall we resign so important an article of advantage for admission on equal terms into the British islands? I trust not; and, inasmuch as the principle is still unsettled, and may be renewed, I the more decidedly give my opinion to this Committee against it.

But we are told whatever may be our fate in the West, all our losses are to be balanced in the East Indies; and we are carried from our own neighborhood, to be sure, to a great distance, in order to have repaid all our sacrifices. Let us examine this 18th article respecting the East India trade, and see if it does not bear a very strict analogy to the West India article that has been exploded.

We are to be admitted, it is true, in vessels of any size, but not suffered to settle or reside without leave of the local Government—that is, of the British East India Company. Of all the despotisms in the world that of a mercantile monopolizing company is the worst; yet into such hands we are to fall, and from them to solicit leave to reside or travel in the country. What security can there be for a commerce thus precariously conducted, in which your rivals are your judge? Also, as a specimen of their sentiments on this subject, take the following, extracted from reports before alluded to, of this very company, when relating to permitting their fellow-subjects of Ireland to go to this very same quarter of the globe:

“The Empire in India is held and depends altogether upon opinion, which must be shaken, if not annihilated, should the natives perceive the subjects of the same Sovereign, speaking the same language, independent to any respect whatever of the ostensible Government of the country. Such a circumstance must at the same time occasion disputes and quarrels between the English and Irish in India, which will produce a discontent at home, and may prove the cause of further ill consequences.

“Ireland cannot look to America, which enjoys some advantages superior to Europe; but even with those advantages America begins to perceive her interest will be to purchase in Europe.

“The advantages which the English company enjoy over foreigners and individuals in procuring their investments in India, and China, are such as cannot be done away in consequence of any disadvantage whatsoever which they may labor under.

“It is yet too early to form a judgment of what may be the final result of the communication between America, India, and China; but it is by no means in a flourishing situation at present. In consequence of the number of their ships at Canton, in 1789, although their tonnage was comparatively small, yet they brought a large surplus stock for America. That surplus stock was sent to Ostend, Holland, &c., but the quality ori-

ginally inferior, was probably further depreciated by its conveyance from China in small and improper ships, so that it would not sell for 6d. to 8d. per pound. The greater part was, therefore, returned to America, who has since imported considerably from Europe for her own consumption.

“It is, therefore, by no means clear that the article of freight will, in any point of view, facilitate the expectation of individuals in a material degree. So long as the exclusive privilege and their political resources shall remain combined and continued to the English company, competitors or interlopers may find their account for a few ships; but when all Europe and America are contending for the prize, one or two ships more than wanted must ruin the whole; and, when loss arises upon an Indian adventure, it is frequently more than private capitals can support.

“It is the singular and unprecedented good fortune of Great Britain that, in combining and realizing the territorial revenue through the medium of commerce, aided by the resources, manufactures, and immense internal traffic and consumption, she stands unrivalled amidst surrounding and contending nations, and bids defiance to all competition.”

From this reasoning it is pretty plain what encouragement we may expect from the local Government, acting under the orders of the East India Company, who display such a very amiable spirit towards the Irish, because, for one reason, they, like us, speak the same language with themselves.

It appears to me that, by combinations of this 18th article with the 15th, Great Britain hath stipulated for herself and for the East India Company an admission for British India goods to our country on terms equal, as to duty, in her ships and our own. The event of which will certainly be that she will have here her India warehouses, and will, by her capital and resources, before long, have this trade entirely in her own hands, and our right of admission will turn out to be only an empty name.

The consumption of India goods being in a great degree out of the question in England, the Company, who have an annual revenue of a million and a half sterling to receive from their possessions in India, have hitherto sold them at vendue in Leadenhall street; and I believe, considering the credit our merchants usually obtained in London on those goods, and the low price the Company sold them at, they could afford to supply us cheaper in England than we could get them from India in time of peace. I find the East India Company themselves state, in 1788, that seventeen-twentieths of the calicoes imported by them were exported, and twelve-twentieths of the muslins also exported, thereby realizing, as they term it, the tribute which India pays to Great Britain through the medium of its commerce. In 1793 the Company state the internal consumption of India calicoes and muslins to be reduced in Britain to almost nothing. They add, every shop offers British muslins for sale, equal in appearance, and of more elegant patterns than those of India, for one-fourth, or perhaps more than one-third less in price. They say nine-tenths of all muslins and calicoes are sold for exportation. The profits

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on their imports they state as follows, for a supposed year:

Suppose cost of piece goods in India,	£1,126,300
Freight - - - - -	209,270
Duties - - - - -	600,970
Charge of sale 6 per cent. - - -	130,894

Total cost £2,075,434, sold for £2,314,900

Yielding about 20 per cent. profit on the first cost in India. But may it not be asked, whether we can expect to stand the competition on terms of equal tonnage, equal duties with the East India Company, who thus make their remittance, when it is considered that we must send silver out to purchase, and be often long kept out of our capital, in a country where such numerous and profitable occasions to employ capital present themselves, and must trade in India watched every step by agents of a Company who will be competitors in purchases with us? I can readily conceive at present the East India trade may resemble all others by greater profits, owing to the war in Europe; but, from one attempt that passed under my own eyes, in 1790, as to the East India trade, I had no reason to form high notions of it. When the war ends and trade is reduced to its natural level, we should perhaps find ourselves greatly mistaken as to the value of this article coupled with its restrictions, one of which leaves it very doubtful whether India goods may be re-exported from the United States. On the whole, the article to me appears to stand thus: We are admitted to their ports in India, but then the tonnage we are to pay there is to be measured by the tonnage on British vessels paid here. Our vessels are also to be restricted not to carry any of the articles exported by us out of India to any port or place except to America; and this they have a right to enforce in any way they may think necessary. We are not to settle or reside but with the leave of a Government who are merchants, or employed by merchants, and our rivals. Can it be imagined that, under such disadvantages, this trade can be profitable to us in the sequel? What articles do we export to India? What danger may there not be of our trade with parts of India not belonging to Britain being interrupted by their men-of-war, under pretence of our carrying India goods to ports contrary to Treaty? One of the Indianmen has been already taken into Martinique, on what principle, or whether according to Treaty, we have not yet heard. Of one thing we may be sure, we shall find in the India Company rivals, jealous and suspicious, and in their men-of-war ample dispositions to enforce the 13th or any other article of the Treaty against us.

The 14th article stipulates an equally free trade between this country and the British possessions in Europe, and provides for each party hiring and possessing warehouses, &c.

The 16th article is one of the most objectionable of the whole Treaty, because it fundamentally contradicts all the provisions heretofore made by our Government for the encouragement and protection of the navigation of this country.

By it it is settled that, so far as respects us no tonnage duties shall be laid on British vessels but what shall be laid on those of all other nations; no duties on British articles but what shall be laid on those of every other nation; no embargo to affect Britain but what affects all other nations alike; American bottoms are left exposed to be charged, in the European British ports, tonnage duties equal to those laid on British bottoms here; countervailing duties may be laid in England to equalize the difference of duties on European or Asiatic goods imported here in British or American vessels; and no additional difference in tonnage or duties of this kind is to be made hereafter.

These principles deserve to be separately examined. They virtually repeal all the laws heretofore made as to navigation and impost, by indirectly equalizing the tonnage and duties on the British and American vessels; and they restrain, in future the powers of Congress on some of the most important regulations of foreign commerce that could come before them.

The difference now existing by law on goods imported in foreign or American vessels, is 10 per cent. on the amount of duties paid; the tonnage difference is 4 cents higher per ton every voyage on a foreign than on an American vessel.

These the British Government may now countervail; they may, in fact, charge on our ships coming from London here, and on their cargoes, duties that shall equal in amount the difference paid on goods imported from Europe or Asia in foreign bottoms. And here a curious circumstance occurs; Great Britain stipulates a right to countervail in Europe the differences of duties paid on importing goods from Asia. Why were duties on Asiatic goods to be countervailed in Europe? Why is a merchant no way concerned in the East Indian trade, to pay a difference on duties from thence on his ships in Europe? Hath any body calculated the amount of this, or the discouraging effect it must have on the great interests of our navigation employed in Europe?

But the hands of Congress are to be tied up to lay no new or additional tonnage on British vessels, nor to increase the difference on duties on goods imported in their vessels or ours; and to make no discrimination in duties, or embargoes, or prohibitions, between British vessels and those of any other nation. May it not well be asked, why all this?

Suppose France were to offer us free admission into Hispaniola, and to carry the rich produce of that island, provided we admitted French manufactures on lower terms than British, could we accept it under the Treaty, and why should we have restrained our power of embracing such an offer?

It appears to me this article is wholly inadmissible, stipulating sacrifices on our part, without equivalent, without reciprocity.

The 17th article admits Britain to take French goods out of our vessels, while our Treaty with France forbids the French to take British goods out of our ships. Our vessels, therefore, become safe sanctuaries for the property of one nation

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and unsafe to the other. We consent to take in French goods on freight, we consent to their being taken out and made prize of, so as there be no delay in our being indemnified. Can any thing be harder or more disgraceful than this article? made, too, at a time when France is at war, and we are enjoying so lucrative a trade with her possessions. How fatal must be the admission of this principle to any future state of neutrality of this country! Every American vessel, coming from French or Dutch ports, may, on this principle, be captured or detained on suspicion, in a manner that every day proves ruinous to our commerce and vexatious to our merchants, who see their vessels taken by a fleet stationed on our coast on purpose, almost in their sight.

Article 18th relates to the contraband articles, and is as exceptionable as any, because, affording the British a pretext for stopping, as they do daily, our provision cargoes, and thus intercepting the regular operations of our commerce. It is, besides, contradictory to our other Treaties; for it declares, in time of war, articles to be contraband that our other Treaties say shall not be contraband. Suppose Spain and Portugal to be at war, how could we see performed, in justice to each Power, the following contradictory articles:

BRITISH TREATY.—Article 18th. "In order to regulate what is in future to be deemed contraband of war, it is agreed, that under the said denomination shall be comprised timber for ship-building, tar or rosin, copper in sheets, sails, hems and cordage, and generally whatever may serve directly to the equipment of vessels, unwrought iron and fir plank only excepted."

SPANISH TREATY.—Article 16th. "Furthermore, all kinds of cotton, hemp, flax, tar, pitch, ropes, cables, sails, sail cloth, anchors, and any parts of anchors, also ship's-masts, planks and wood of all kind, and all other things proper for either building or repairing ships, and all other goods whatever which have not been worked into the form of any instrument prepared for war by land or sea, shall not be reputed contraband."

The 19th article stipulates for the security of our people from the men-of-war or privateers of Britain; but the numerous documents of impressment of American natives, that are on the files of the House, sufficiently prove the little regard paid to these stipulations, if they were meant, as was supposed by an honorable member from South Carolina, [Mr. HARPER] to relate to them.

On a review, then, of the commercial articles, they may be summed up as follows: West India trade left blank by the suspension of the 12th article. East India trade subjected to a condition of residence, rendering it precarious, and restricted to a landing of the goods exported in the United States, not known to have ever been imposed in any way similar, on any other nation trading to Bengal, while all nations are constantly allowed an equal liberty of trading there with ourselves. European and both these trades liable to an equalization of tonnage and duties, that cannot but operate unfavorably to the American navigation. Should the countervailing duties take place in

the British ports in Europe on American vessels, they will probably be shut out of them altogether. In time of foreign war, our ships deprived of the neutral rights of carrying allowed them by Treaty with France and Spain, and exposed to be captured and detained on suspicion, as now daily happens. Naval stores exposed to confiscation by England, when shipped at a time when she is at war, to the ports of her enemies.

In all these instances our navigation is materially endangered and exposed, without any equivalent advantages. May it not now well be asked, Whence it comes that this interest of navigation hath become less an object of care to us than at the time we passed the laws of duty and impost on foreign ships and goods imported into them? I stated the other day my ideas of the immense importance of navigation. Mr. Burke gave the following opinion of a branch of it in 1775:

"As to the wealth which the Colonies have drawn from the sea by their fisheries, you had all that matter fully opened at your bar. You surely thought those acquisitions of value, for they seemed even to excite your envy; and yet the spirit with which that enterprising employment has been exercised, ought rather, in my opinion, to have raised your esteem and admiration. And pray, sir, what in the world is equal to it? Pass by the other parts, and look at the manner in which the people of New England have of late carried on the whale fishery. Whilst we follow them among the tumbling mountains of ice, and behold them penetrating into the deepest frozen recesses of Hudson's Bay and Davis's Straits, whilst we are looking for them beneath the Arctic Circle, we hear that they have pierced into the opposite region of Polar cold, that they are at the antipodes, and engaged under the frozen Serpent of South Falkland Island, which, seeming too remote and romantic an object for the grasp of national ambition, is but a stage and resting place in the progress of their victorious industry. Nor is the equinoctial heat more discouraging to them than the accumulated winters of both the poles. We know that whilst some of them draw the line and strike the harpoon on the coast of Africa, others run the longitude, and pursue their gigantic game along the coast of Brazil. No sea but what is vexed by their fisheries, no climate that is not witness to their toils. Neither the perseverance of Holland, nor the activity of France, nor the dexterous and firm sagacity of English enterprise, ever carried this most perilous mode of hardy industry to the extent to which it has been pushed by this recent people—a people who are still, as it were, but in the gristle, and not yet hardened into the bone of manhood. When I contemplate those things, when I know that the Colonies in general owe little or nothing to any care of ours, and that they are not squeezed into this happy form by the constraints of watchful and suspicious Governments, but that through a wise and salutary neglect a generous nature has been suffered to take her own way to perfection—when I reflect upon these effects, when I see how profitable they have been to us, I feel all the pride of power sink, and all presumption in the wisdom of human contrivance melt and die away within me."

Since then our navigation has had the growth of a man arrived at full age, (twenty-one,) and become extended to an immense size; yet was it

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so unprotected that, in this year, the United States wanting to remit out of some cargoes of sugar and coffee shipped on private account, money to pay the interest of their debts in Holland, they were under the necessity of asking passports for these cargoes of the French and British Ministers, to let this property pass in safety over the Atlantic; and I have seen it boasted in some of our papers, that orders were issued by the British Government to their Port Admirals to respect these passports thus given by their Minister or agent here; so the United States left their own merchants to carry their sugar and coffee as they might, but obtained passes for ships, in the proceeds of whose sales they were interested. What a strange circumstance, this! The American Government sailing secure under passes—the private merchant exposed!

But it is asked, if this Treaty be so unfavorable to commerce, why are the merchants so much in favor of it?

They explain the reason themselves. They are influenced by the present rather than future interests. Five millions of spoiliations they look to the Treaty to repay; their property afloat, they fear to be taken, and war they dread; but is there really weight in these arguments? I am as largely interested as any individual among them in shipping, and have suffered the loss of one of my cargoes at Bermuda, for which my underwriters have made me only a partial allowance; but I neither dread any war on the part of England, situated as she now is, nor expect any payment of my loss from the Treaty. To a nation to whom she offers bounties to carry her provisions, and who is so excellent a customer for her manufactures, she will not be easily induced to offer hostilities that shall go to the extent of war; and the Commissioners on Spoiliations are to act in London merely as arbitrators of the Law of Nations, on whom our claim of spoiliations is at best but a very uncertain dependence. The merchants in sundry parts of the United States having thought it so, have claimed the interference of Congress in advancing them the money, they rather doubted getting anywhere else.

Considering, then, this Treaty as merely a bargain exhibiting little or no profit and much to lose, I separate it from all considerations foreign to itself. I judge it on its own merits, and these must lead me to vote for the proposition to suspend appropriations, especially in a moment when our seamen continue to be impressed and our ships to be taken. In this I may differ from many of my fellow-citizens, whom I greatly respect, and from whom it gives me pain to have opposite sentiments, but I rely on their candor, and full of the deepest sense of the high honor their choice has conferred upon me, I will endeavor to merit it by the exertion of my best judgment for their interests, partaking, myself, equally, at least, with any of them, in the consequences that may result, and which, I trust, will be such as will do honor to, and promote the best and most lasting interests of our country.

When Mr. S. had concluded his speech, the

Committee rose, had leave to sit again, and the House adjourned.

SATURDAY, April 16.

DEBT DUE BANK UNITED STATES.

Mr. GALLATIN called up the resolution which he laid upon the table on Thursday, for the appointment of a committee to inquire of the Bank of the United States, whether they were willing to let the sum of \$3,800,000 which they had advanced to Government by way of anticipations, remain on new loans as usual.

After some observations on the nature and propriety of the inquiry from Messrs. GALLATIN, SWANWICK, HILLHOUSE, HARPER, SEDGWICK, and LIVINGSTON; and the sum being struck out, it was agreed to, and a committee was appointed to carry the inquiry into effect.

EXECUTION OF BRITISH TREATY.

The House then resolved itself into a Committee of the Whole on the state of the Union, and took up the resolution for carrying into effect the Treaty with Great Britain.

Mr. NICHOLAS said, he was sorry to find gentlemen unwilling to go into a discussion of the merits of the Treaty, as he anticipated considerable benefits to the community from a fair investigation. He did not know, as had been said, that it could have no effect on the minds of members of the House, but thought it necessary that the people should be enabled to form a just opinion of the merits of this compact, that neither opposition nor their attachment, should go beyond just bounds; that fair investigation was the most likely means of producing that calm in the public mind which he wished to see produced whenever Government had finally decided, and he would venture to say, there was no place which could be resorted to for more sound information. He was as willing to admit that it could not be obtained from the passionate publications which were produced by the first impression of the Treaty, as he was bold to assert, that it was not to be found in the labored justifications which had appeared in the papers, and which was distinguished more by sophistry and zeal for the instrument than a wish to discover truth, or a design to enlighten the people of the United States.

Under this impression, he would offer his sentiments to the Committee, on the probable effects of the Treaty. In looking for inducements to accept it, he should confine himself to those offered by the instrument itself; for he could not appreciate those mischiefs which party men had conjured up as following the rejection of the Treaty. He could not conceive that cause of offence would be given to Great Britain, or that her interest or situation would permit her to resent it, if there was such cause; this House had decided that the Constitution had made it their duty to examine Treaties like the present, and to determine on them according to the interest of the United States. It followed that, being a constituted authority for giving operation to such a Treaty, there was no

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obligation on the United States until the House concurred; and Great Britain must resist this construction of the Constitution before she can pretend that any right of her's has been violated. Nobody will contend that she can meddle, on this ground, or attempt to impose a construction of the Constitution agreeable to herself. As there is want of pretext for quarrel, so, also, must there be a disinclination to embroil herself with the United States. 'This is the time, of all others, when Great Britain would be most averse to war, exhausted by her present contest, completely disappointed in the events of it, and continuing it only with the hope of acquiring something on which to build a safe peace; it is not to be believed that she would embark in a new war, with the sacrifice of her best trade; more especially, as she has shown an intention of making her remaining efforts against France, in the neighborhood of the United States, where their supplies will be essentially necessary to her success. There does not appear any cause of alarm; but if there was reason to expect that Great Britain would take offence, that would be no ground for acceptance. It would fully prove the inequality of the contract, and would, in effect, be an attack on the independence of this country. The danger would increase with the benefit she promised herself, and submission would inevitably provoke demands.

In considering the merits of the Treaty itself, Mr. N. said, he would consider the subjects which pressed themselves on the negotiator, and demanded provision. These were chiefly the disputes arising under the Treaty of 1783, late depredations on our trade, and the settlement of contested principles to guard us against future misunderstandings.

The cases arising under the Treaty of 1783, as heretofore contested, were negroes and other property carried away contrary to its stipulations; the territorial claim under it, and on the part of Great Britain, an interference in the recovery of private debts.

Of the negroes, nothing is said in the present Treaty. It is to be expected in negotiations, that some concessions are to be made for the sake of accommodation, and this sacrifice of private interests becomes sometimes unavoidable. This claim was of considerable importance to a class of the citizens of the United States, but it was of still greater importance, as it justified the United States from the charge of breaking the Treaty of Peace. In this respect it was highly incumbent on the negotiator to procure satisfaction. It will not be contended that it should have been a *sine qua non* in the negotiation, and it would not now be mentioned, if it was not necessary to a fair estimate of some of the stipulations of the Treaty, and if there had not been so uniform a surrender of the interests of the United States as to compel a calculation. It is now said, indeed, that the meaning of the Treaty of 1783 was mistaken, and that the engagement was only to refrain from carrying away negroes, &c., which should be found in possession of the inhabitants at the time peace should take place. It is not necessary now to go

into a construction of the words of the article, as its meaning has certainly been fixed by the interpretation of the parties in the ten years which elapsed after it. In all that time the United States have asserted the claim, and it cannot be shown that Great Britain ever contested the construction of the article. It is said, that one of the Commissioners, [Mr. Adams,] who concluded the Treaty of 1783, in behalf of the United States, informed the Senate, in their deliberations on this Treaty, that it was the unquestionable meaning of the article, to save all negroes and other property then in the hands of the British; that the article was inserted after all other points had been settled at the instance of Mr. Laurens, who just then arrived from his confinement in London, and the reason assigned by him was, that many of the people of the United States would be disabled from complying with the part of the Treaty which respects debts unless this provision was made, that the same gentleman, who was afterwards Ambassador from the United States to the Court of London, also informed the Senate that, during his embassy, this construction of the article was never denied, and that it seemed to be understood by the Ministry, that, on a settlement with the United States, compensation must be made. This subject was fully investigated by the negotiator of the Treaty, [Mr. Jay,] while he was Secretary of Foreign Affairs; all the reasons which now arm the friends of the Treaty against this claim were examined by him, and then his decision was, that we were entitled to compensation. The reputed author of the best defence of the Treaty, [Mr. Hamilton,] in the year 1783, introduced a resolution into Congress, declaring that the negroes, &c., had been carried away by the British armies, contrary to the true intent and meaning of the Treaty. Mr. N. thought it too late to extort a meaning from a contract after it had existed more than ten years: and he did not doubt every candid mind would be satisfied by the acquiescence of Britain, and the evidence which he had produced of a perfect understanding between the two countries on the subject. If the new construction of the article could not be established, the first infraction of the Treaty of 1783 remained indisputable. Before the Treaty became binding, Great Britain, by carrying away the negroes, put it out of her power to execute the contract which she had made, while, on the part of the United States, no act had been done which was inconsistent with the Treaty, provided the acts of the States did not continue to operate after the ratifications were exchanged.

Before he examined the cases provided for in this Treaty, it was necessary to remark, that the Treaty declares its intention to be to settle the disputes of the two countries without regard to former recriminations, and all the writers in favor of the Treaty, declare that it was necessary to waive the first infraction of the former Treaty. This was a proper principle, and he only asked that it should have been pursued. The spirit of conciliation must have meant to put both parties on the same footing, either by agreeing that neither party had

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been the cause of the Treaty not being executed, or that both had been equally guilty. He would examine whether either of these concessions had been pursued.

To obtain a surrender of the posts, and the territory withheld from us, we have sanctioned the subsequent alienations of land by the King of Great Britain. We have confirmed the claims of the inhabitants and dispensed with their allegiance, by permitting them to remain subjects of Great Britain; we have opened our frontier to all their citizens, and permitted them to retain a share of the Indian trade. Mr. N. did not pretend to judge of the commercial effect of the intercourse between the frontiers, but he apprehended that, in another respect, this concession would destroy the whole value of the acquisition. The traders would be enabled to maintain their accustomed influence over the Indians, and would have more inducements than when they had a monopoly of the trade to embroil them with the United States. Formerly, they were interested in their continuing in peace, as war prevented the acquisition of skins and furs; but when American traders shall embark in the trade, they will have an obvious interest in war as the certain means of banishing their rivals. It appears, then, that the Treaty of 1783, in this respect, is not revived—that there is a new contract with respect to the posts, and much less will be obtained than if that Treaty had been executed.

When the claims of Great Britain, under the Treaty of 1783, became the subject of the present Treaty, the stipulations discover a different principle. The United States give up the claim for negroes, and agree to receive the posts on terms which greatly diminish their value; but, when the debts due from citizens of the United States to subjects of Great Britain are to be provided for, there is not a stipulation that they may now be pursued without hindrance, but there is an engagement, on the part of the United States, to pay all losses which have arisen from the infraction of the Treaty of Peace, so far as it respects them. On what ground could this assumption have been made? Why is this penalty imposed on the United States? There can be but one justification, and that is, that they had been guilty of the first infraction of the Treaty of Peace, and must make amends; but there was to be no concession of this kind, so that if damages were to be given at all, they should be given on both sides. It seems clear, then, whatever pretences are made by the Treaty or its advocates, that the first infraction of the Treaty of Peace is fixed on the United States, and that they are to make compensation for an injury. Where does the conciliating temper of Great Britain manifest itself? Had she a claim under the Treaty of 1783, which is forgotten? Does she not receive everything which she could have demanded in relation to that Treaty? The United States are to indemnify her citizens completely for the non-execution at the time, and are to receive less than was promised them without the least compensation for the delay. But it is somewhere said, that the damages could not be

demand for withholding the posts, because they could not be computed. It will be agreed by those who press the acceptance of this Treaty in order to obtain the posts, that they are important to the United States. If of the consequence which they are represented to be, twelve years dispossession must have been a real injury, and the claim on Great Britain will be indisputable, although the amount may not be certain. This might be a good pretext for evading a payment to the United States, if this claim stood unconnected with any other; but it must be considered as a very shameless suggestion to enforce the payment of damages incurred by them. It is certainly a sufficient justification for retaining what is in their hands until Great Britain shall offer something on this account; otherwise she will be screened by her cunning in causing the subject of injury. Again, it has been said that this inequality in the Treaty was proper, because the right to recover debts returned with the peace, and did not depend merely on the Treaty. It is to be remembered, that the United States justify it as a retaliation for breach on the part of Great Britain, and that, in forming this Treaty, it was agreed to waive the right to retaliate; or, rather, the question, who first infringed the Treaty. It is only to be inquired, then, whether this was a proper subject of retaliation? and, if it was, the United States ought to escape all penalty for using it, or Great Britain must be equally subject to compensation for her infractions. (For this, see *Marten's Law of Nations*, page 268, where it is said that it matters not, in this respect, whether rights are innate, or whether they have been acquired by express or tacit covenant, or otherwise.)

Again: it has been said that the interference in the recovery of debts was not on the part of the United States, but was from the individual States. This argument admits that it would have been justifiable if Congress had directed it, but supposes it wrong for want of that direction. How Great Britain could avail herself of this, cannot be conceived; but how it can justify this demand on the United States, must take more than common ingenuity to discover. The effect of this retaliation is only to produce a fund for satisfying injuries done by Great Britain. It would be immaterial in what manner the fund was obtained, and Great Britain could never object to the use of it on account of that manner. A fair investigation of this agreement requires some estimate of the amount of those damages. This must depend upon conjecture, but showing the cases in which the United States will be liable, will sufficiently show that its amount will be seriously felt. The principle of the Treaty and its express stipulation is, that the United States will make good all losses by the operation of legal impediments to the recovery of debts. A case understood on all hands to be an object of the Treaty is, that of insolvency happening during the interference. This will be found to amount to a considerable sum. Another case is, where, from the course of things, the length of time elapsed will put it out of the power of creditors to produce that kind of proof

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which the laws of the States require, and where it will be necessary, to execute the principle of the Treaty, to admit some other kind of proof. The Treaty seems to have had this case in view, for it has expressly empowered the Commissioners to receive books, copies of books, and such other proofs as they may think proper. In Virginia, the business was done in such a manner that a great part of the debts remained due on open accounts without specialty, and the common law principles of evidence governed the Courts, except within two years of the date of the account, within which time a merchant was permitted to prove his account by his own oath. This privilege cannot now be claimed in any of those cases, and the other modes of proof are perhaps uniformly lost by the length of time. There seems, then, under the Treaty, to be an irresistible claim on the Commissioners to admit creditors to prove their accounts by some possible means, and these proofs being refused by the Courts will throw this whole class of debts on the United States: their amount will be enormous.

Another class of claims which may fall on the United States is still more alarming—those for war-interest. The Treaty has explicitly authorized the Commissioners to judge of all claims of British subjects lost by legal impediments, whether of principal or interest, and they are to determine according to justice, equity, and the Law of Nations. In the correspondence on this subject between the two Governments, the right has been asserted and denied; and it will depend on the Commissioners to say whether war-interest is due or not; and it being to be supposed that the Commissioners will advocate the principles of their respective Governments, the United States are to depend on the chance election of the fifth Commissioner for safety. If it shall be determined that it is due, the mischief will be insufferable. It will not merely be recovered in those cases where the principal is unpaid, nor will it be confined to those cases where it has been lost by actual judgment of a Court, but will extend to all cases of private settlement, where the decision of the Judiciary of the State had previously settled the principle.

This may be considered as a groundless apprehension; but if the right to war-interest is settled, the extent cannot be doubted. Every body will see immediately that where it was stricken off by a Court, it must be revived; and one moment's reflection will convince, that relief must equally be extended to the case of private settlement. The difference, if any, must be created by the party's failure to institute suit, and everybody must admit that this could not be expected where, by previous decision, it was known that he had nothing to expect from the Courts; indeed, without a possibility of benefit, it might have been attended with the loss of costs or a tender of principal, and that part of interest which the Court held due, would have subjected him to costs for all further proceeding. According to the average rate of interest in the United States, the war-interest equals one half the principal, and it has been the univer-

sal practice in the State Courts, as it is said, where the debts have been recovered, to refuse interest during the war. Lest it may be doubted whether the effect of the Treaty is to put this dangerous power into the hands of the Commissioners, a reference may be had to the latter end of the number of "*Camillus*," where it is clearly admitted.

It appears, then, that on the subject of the disputes arising under the Treaty of 1783, there is no cause for congratulation. The claims for negroes carried off are abandoned; the posts are to be delivered up, on terms not unusual and dishonorable, but extremely dangerous to the future peace of the United States, and to obtain them in this manner we incur an obligation to pay a sum which probably will not fall short of five millions of dollars, and which may possibly amount to fifteen millions. When it is remembered that these claims commenced with our independence, and that they were the concessions to our infant struggles, what American is there who will not feel the disgrace to our manhood in abandoning them? All must blush at a comparison of the Treaty we obtained with our arms, with that which has been dictated by fear.

The next subject which claimed the attention of a negotiator was the injury recently sustained in the commerce of the United States; and on this subject it will be proper to review the circumstances in which the negotiator left this country. The losses sustained had been considered here as outrages of so serious a nature that all parties had concurred in demanding reparation; some had attempted at once to use coercion, and those who approved the mission declared that war must follow a failure. In this situation, where the sense of Government and people was decided, and where the injury was not only intolerable in itself but was likely to be repeated, it seems astonishing that a man could be found who would conclude a Treaty which gives to the United States no compensation, but more astonishing that partisans could be found here who approved his conduct. It may be asserted that no compensation is secured by the Treaty, and that under its operation it is equally probable that none will be received. See the article. It has been doubted, and is, perhaps, very doubtful, whether the Courts of Great Britain are not made the judges of irregular and illegal captures and condemnations, and whether the orders of the King are not admitted as good cause of seizure; but it never has been contended that compensation is promised in any particular case, or that any principles are established by the Treaty which are to govern the Commissioners. In the construction of their powers, insisted on by the advocates of the Treaty, their guides are justice, equity, and the Laws of Nations. Nobody can complain of these principles, if their fair operation was secured; but a moment's attention will show that this was nothing but an evasion of the subject.

The Governments themselves have been at issue about what the Law of Nations relative to this subject is, and it will not be denied that the Com-

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missioners are to settle this contested law, as well as to decide on facts. What, then, is to be expected from the Commissioners? Can it be doubted, if there was danger that the political opinions of the Commissioners would not conform to those of the Government, that Great Britain will previously ascertain a concurrence in principles which she has contended for so long? In the most favorable event, all that can be expected on the part of the United States is that their own Commissioners will be equally zealous, while it is very possible that the sincerity of their Government will prevent a previous examination into the qualifications of their Commissioners. If this should be the event, and nobody will deny that it is the one which ought to be calculated on, what will be the situation of the parties? Resort must be had to a fifth Commissioner, or rather to the chance which is to decide his appointment. The United States, then, in this clear and delicate concern, is to submit to the decision of chance for reimbursement. There is not only an equal chance of losing all, but it depends on this tribunal whether the principles under which Great Britain has acted shall not be sanctioned. There being no agreement on principles, there can be no acknowledgment of injury unconnected with the event of reparation. Why is this solemn mockery of our rights? If dice or straws were to determine them, why not make the trial in secret, and let the Treaty depend on their decision? It would have been much more honorable to abandon all claim in that stage of the business on their decision, than to receive as a concession in the Treaty that they may decide, and to prepare for that decision with the solemn forms which appear in this business.

But there is evidence beyond the wording of the article, which has been before said to be doubtful, that Great Britain does not mean to submit principles at all to the decision of these Commissioners, and that she will insist on their conforming to the principles established by her Courts. It will be remembered that when the time for appeal was extended by the King of Great Britain, it was supposed to be the mode of making compensation to the citizens most agreeable to the pride of Great Britain, and that in the review of adjudged cases all principles would be abandoned which might subject them to compulsory restitution when any tribunal not dependent on that Government should be established.

If the case is resorted to in which their Courts of Appeals decided against the Messrs. Pattersons, of Baltimore, it will be found that they, so far as reasons are assigned at all, have affirmed principles which of all others would be most likely to be denied by an impartial tribunal; and it is fair to conclude, considering this Court as altogether a political one, that there is no intention to submit their decision to a review. It has been usual to connect this article with that respecting British debts, and to oppose objections to this, by saying that both are in the same words; but it will easily be seen that the fitness of the remedy depends altogether on the subject-matter. In a considerable part of the claims which will arise under that

article the Commissioners will only have to inquire into facts. What constitutes a debt, being too certain to admit of doubt, men of character could nowhere be found who, when deciding on them, could be brought to take the part of either Government; but this is not the case where political opinions are to be the basis of their proceedings, as in case of spoiliations; every day's experience proves that these are copied from those with whom you converse, that they are founded on views of aggrandizement, and that opposite sides may be supported with such specious reasons as to leave the partisans without a suspicion of insecurity. Commissioners are, therefore, very proper for deciding where principles are not in dispute, but where they are, chance must be called in to aid them; for it is not in any case to be expected that they will agree. It may be asked, what was to be expected in this case? It may be answered, that nothing is done, and therefore, if we are satisfied of our right, more ought to have been insisted on; principles should have been decided by the Treaty itself, not only for guidance of the Commissioners, but for future security.

The next subject in relation to which this Treaty is to be considered, is the settlement of principles to prevent future misunderstandings. With respect to it the Treaty will be found still less satisfactory. The discussion on the article respecting actual spoiliations will fully prove that little can have been done. The principles of compensation, if any had been fixed, would have been a rule for future conduct; and it is no small aggravation of the abandonment, that we are always to be subject to similar injuries. The daily outrages to our commerce and commercial agents are full proofs that their safety must have been badly provided for, or, if provided for, that the execution of the Treaty is not to be expected. It may safely be affirmed that no provision is made in questionable cases, but by surrender of rights on the part of the United States; there is reason to fear that this has been done in some important cases. The general list of contraband has been very much enlarged to our disadvantage, while the books on the subject were divided, and practice was against the concession. It seemed to him to be the effect of the 18th article of the Treaty to concede a right under the Law of Nations to capture provision vessels going to an enemy's country; and if so, it is extremely injurious to the United States. Although apologists are found for almost everything which has happened between the United States and Great Britain, yet nobody has been hardy enough to advocate this right contended for by her. *Cumillus* declares it not to be maintainable, and the claim is too extravagant to be founded on anything but force. To suppose that rapine over the whole commerce of a country is to be justified, by a declaration of the plunderers that they have hopes of reducing an enemy by famine, is to abandon every principle of law. In the third section of the 18th article, it appears that confiscation of vessel and cargo, as under the Law of Nations, continues to be the penalty of vessels going, with notice, to a place besieged, blockaded,

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or invested; and it remains to be inquired for what cases the second section of the same article was provided. By it, it is agreed, "that, to provide against inconveniences and misunderstandings which might arise from the disagreement as to the cases in which provisions and other articles, not generally contraband, become so under the existing Law of Nations, when they so become contraband they shall not be confiscated, but the owners thereof be speedily and completely indemnified," &c. This article, with the other commercial articles, is to expire in two years after the termination of the present European war; and being a war article only, may be said to be made for the war.

The agreement being apparently for the benefit of the neutral nation, that is, the United States, is to be considered as made at her solicitation; and it must be agreed, that it contains a concession on her part, that a case may exist where the agreement will operate. What is this case? It may be seen in Mr. JEFFERSON's letter to Mr. Pinckney, remonstrating against the seizure of provision vessels under the orders of the 8th of June, that the Executive of the United States deny that the right of seizure exists in any case but that of going to a place invested, blockaded, or besieged. Great Britain, on her part, has never claimed more than one other, and that has been in the case where she had an expectation of bringing her enemy to peace by famine. Is it not greatly to be apprehended, that when this is the only case which has come into dispute between the two countries, the only one pretended to exist on one side, and denied by the other, that when there is an admission of the kind contained in this article, that it is of the contested case itself? But it is said that there is no admission contained in the article, but only a provision for the case when it does happen. It is a sufficient answer to this, to say, that compensation can only be obtained under the article when there is an admission that the capture was made agreeably to the Law of Nations; that an admission is necessary to the operation of the article. The declaration that it was to prevent inconveniences and misunderstanding, shows that there must have been some important operation with respect to contested cases in view, and that there was some adjustment of principles, so as to make way for its operation. If the reference to the Law of Nations was stricken out, it would be easy to comprehend the article.

It would then mean, that during the present war, all inquiries into the legality of captures was to be waived, and that the compensation should be general. It is easy to account for the insertion of that reference; for while the negotiator was willing to put things on that footing, he was unwilling, and was conscious it would be improper to make so unmasked a sacrifice of the rights of France in our lawful trade. These words, then, which are of themselves inconsistent with the context, to reconcile the whole clause, must produce an admission of a right to seize. It may prove very unfortunate that it should

have been thought necessary to veil the article, for the words which were probably only intended for that purpose, will affect the admission of a permanent principle in the Law of Nations; which will bind forever, while the compensation will have expired. But it is said by *Camillus*, that if the article contains any admission of right, it cannot be said to admit it in the case of going to an enemy's country generally; for that there are other cases to which the compensation may apply. That writer mentions the case of a vessel leaving home for a blockaded port, with notice of the blockade; but he is certainly mistaken. The last section of the article in question would subject such vessels to confiscation as usual; and it appears impossible to distinguish such a case in reason from the one where notice was given by the besiegers. He conjectured, also, that a vessel going to an investing fleet would be subject to seizure; but brings no authority for saying so; and it is unnecessary to investigate a case which was not in view of the parties, was not likely to happen, and could not give such importance to the article as it seems to claim. In truth, there can be no doubt about the subject of the article; for while it was little understood, the case I have suggested was the avowed object of it; and it has certainly been practised on in the manner I understood it. Indeed, some zealots for the Treaty, not understanding the consequences, treat its operation in this respect as a benefit to the United States.

This construction renders the article a matter of very serious moment in our connexion with France. In the letter before referred to from Mr. JEFFERSON to Mr. PINCKNEY, it is the avowed opinion of Government, that a toleration of the capture of our provision vessels would give just cause of complaint to France, and that she might justly charge the United States with a covert assistance of her enemy. If the toleration of an act which was apparently an injury to ourselves, would bear this construction, how unquestionable will be the breach of neutrality, when we surrender the right, and stipulate compensation for the surrender. The character of the article in this respect deserves serious inquiry; for the people of the United States are not ready to transfer their alliance from France to Great Britain, and will not submit to it.

In all this investigation of the subject in relation to our long standing differences, our recent injuries, or our future connexion, there is nothing but a qualified surrender of the posts to console us for great accumulation of debt, dishonorable surrender of our just rights, and where they were of a nature not to be surrendered, for a no less dishonorable evasion.

It will not be understood that I suppose it was in Mr. Jay's power to make his own terms, but I complain of his treating at all on the terms he did. It is said that it was not in his power to extort what he wished, but I complain that he yielded to the extortion of Great Britain. What has he left her to ask, what has he not surrendered? While professing, as the Treaty does,

that there were important points of our commerce left for future negotiation, why bind us to continue to Great Britain the fullest share of our commercial privileges? If the Treaty had been the most complete and satisfactory, would it not be necessary to leave something to enforce its execution? What weapons have we which can reach her? The Treaty makes war indispensable, as the only redress of injuries, and how will war from the United States reach Great Britain? It was certainly improper to give up all power of restricting her commerce until the same instrument contained the fullest satisfaction as to our own. It was improper to give up all the power of seizing on the debts of her subjects, for this, when the power of restricting her commerce was bartered for equal privileges, would be the only means of maintaining respect. It is not necessary that weapons of any sort should be used, but it is more dangerous to surrender them. I am no friend to interference in private contracts, and I can truly say, I never was willing to resort to this remedy till all others had been tried; but if there was an impossibility of doing it, the want of the power would immediately be felt. The impolicy and immorality of sequestration have been dwelt on. Contrast it with war, for which it is a substitute, and it will be found in both respects unequal to it. All national remedies are attended with great mischiefs to those who use them, and they must be adopted only on comparison in this respect, and which regard to their effect on the enemy. In this last respect, there seems to be no choice to the United States; they have no other weapon that can reach Great Britain, and I greatly fear that, when this is lost, we are completely disarmed.

On the whole, having fully satisfied myself of the obligation to examine the operation of this Treaty, and to weigh well its effects before I give it my aid, I must determine that I see scarcely one interest of the United States promoted by it, while, on the other hand, it has established Great Britain in that dominant situation which she is too apt to make use of. All our powers are sacred trusts, and how it is possible for any gentleman who thinks the execution of this Treaty among them to give it his assent, is to me inconceivable.

When Mr. N. sat down—

Mr. SWIFT said, he wished to make a few remarks on this subject. The Treaty of Amity and Commerce before them, had been negotiated with Great Britain, it had been ratified by the constituted authorities of the United States, and promulgated in the legal form; and yet the House of Representatives were examining its merits, in order to determine whether they will make the necessary appropriations for carrying it into effect.

This proceeding seemed to involve a manifest absurdity and contradiction. That it should be said that the Treaty was made by the proper authority, and that it should afterwards be in the power of one branch to determine whether it be good or bad, and to agree or disagree to it, appeared to be an absurdity which could not be ad-

mitted in our Constitution. He believed, if they attended to the Constitution, a fair construction of it would not admit of such an idea. This subject had, on a former occasion, undergone considerable discussion; but, as he had not spoken upon that occasion, he would now offer a few observations upon the construction of the Constitution.

If they attended to the letter of the Constitution, there could be no doubt. But it was said there was a clashing of powers, and that the same objects of jurisdiction were delegated to the Legislature and Executive. He was sensible that, if the same powers were given to two different bodies, without deciding which was superior, the consequence must be a continual warfare; but if they attended to the subject, they would find the Constitution to be consistent, and all doubt would vanish. It must be admitted that the Treaty power would sometimes occupy the same ground with the Legislative power; one of them must, therefore, be paramount, or their clashing would be irreconcilable. It appeared to him that the Treaty power was superior. He thought the Constitution had established the principle which decided this question. There had always been a doubt of the effect of a Treaty in other Governments, and under the Confederation; but the Constitution, to remove this doubt, had declared that Treaty shall be laws. By pursuing this idea, they would find that the point in dispute was settled. The Constitution had said that the Constitution, laws, and treaties, were laws of the land. Here they had three sources whence they derived their laws. The question was, which was supreme? He knew it had been said, that the acts of Congress must be superior. Some gentlemen had argued that the first in order, and others the last, was superior. It appeared to him that the Constitution had decided which was superior; and by attending to it, there could be no doubt on the subject. The Constitution must be considered as the will of the people; it must be considered as irrevocable by an act of the Legislature. The Constitution is paramount to Treaties or laws. Acts of the Legislature were repealable in all cases, except where contracts were made. With respect to Treaties, it appeared to him that the Constitution had declared them laws, and that of course they must repeal all prior repugnant laws; and being contracts from their own nature, are incapable of being repealed. The consequence is, that a Treaty can repeal an act of Congress; it must do this, or it is not law. They must observe, also, that Treaties with foreign nations cannot be repealed by an act of the Legislature. They might, therefore, lay it down that Treaties are irrevocable, consequently that the department making such a law must be superior to that department of Government which had not the power to make an irrevocable law. It had been said, that Treaties might be repealed by a law; but he believed a little attention to the Law of Nations would convince gentlemen of the contrary. A Treaty being a contract, it would be seen it could not be repealed. This would be to

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deny first principles, and to destroy the efficacy of all Treaties. It had been said that a Treaty cannot repeal prior laws, because laws were made by the Legislative Department, and Treaties by a different department, and that it was necessary for the same power which made the law to repeal it. He believed it would not be found anywhere asserted, that no law could be repealed, except by the power which made it. He believed that a Constitution might give to a different department the power of repealing laws. Was not this, indeed, in their Constitution? Had not the Constitution placed in their hands the power of making laws, and given to Treaties the right of repealing laws? This being admitted, no difficulties remain. The Treaty power must be paramount because supreme. He knew it might be said there was some impropriety in giving both branches the same power; but if gentlemen attended to the subject, they would see the difficulties give way: because the Legislature may exercise this power until the Treaty power is in exercise; but the moment the Treaty power comes into exercise, then the Legislature gives way, and the Treaty power being supreme, repeals all laws contrary to it. Viewing the subject in this point of light, the Treaty before them was the supreme law of the land, and that, as such, they were bound to make all the appropriations necessary to carry it into effect.

He knew that it had been said, that this principle would deprive them of all their power; but gentlemen would find that when the Treaty power had occupied all the ground it could, there would still be left many objects of jurisdiction, for the Legislative power. But if, on the other hand, they do not admit Treaties to be binding, until ratified by that House, the Treaty power would be at an end, the Legislature might occupy the whole ground, and the Executive would be unable to form a Treaty with a foreign nation. All Treaties, of course, would depend on the acts of Congress for their validity, and as such acts would be repealable, there could be no security in a Treaty. He would not pursue this subject farther, but would say a few words with respect to appropriations.

Notwithstanding the power given to the Legislature to make all appropriations of money; yet, in all cases where the national faith is plighted, a contract is made, or a debt contracted, it becomes an absolute duty to make the necessary appropriation to carry it into effect; for he considered do doctrine so improper, as that, after a debt or contract was entered into, that they should consider the propriety of the contract on the question of discharging the obligation. He, therefore, thought that it was agreed on all hands, that if a contract was constitutionally made, they were bound to carry it into effect, and that they had not the right to check the execution of contracts. But gentlemen had thought proper to go into an inquiry with respect to the merits of the Treaty, in order to discover whether it would be for the public good to carry it into effect. Though he

would not abandon his principles, yet he was ready to meet them on that ground.

There had been much clamor and misrepresentation with respect to the Treaty before them; but he trusted, in that Committee, the subject would have a fair and ample discussion. He believed, if this were the case, we should find sufficient reasons for adopting it. He ventured to say that the position might be supported that this Treaty had adjusted a variety of disputes between the two nations upon reasonable and honorable principles. He believed it had secured to them a variety of commercial advantages, with few sacrifices on their part; at the same time that he was convinced that there was not a single article injurious to their dignity or independence as a nation. It had been spoken of as sacrificing our liberty and prostrating every thing great and noble to the ambition of a foreign Power. He believed, on a fair discussion, the reverse would be found to be the case. In the examination he intended to go into on the subject, he would not go into the minutiae of commerce, as he was no commercial man.

In the first place, it was natural for them to take into consideration the Treaty with respect to the adjustment of past disputes; those owing to the inexecution of the terms of the Treaty of Peace were the taking away of negroes, payment of British Debts, and the detention of the Western posts. The other dispute respected the spoiliations on our commerce committed in 1793 and 1794.

With respect to the negroes, very little could be said. It had been observed, that till lately, it had always been allowed that they had a claim on Great Britain on account of those negroes. It was enough to look at the article itself in the Treaty of Peace; and he was surprised that any person could ever have entertained an opinion that they were entitled to compensation. If that article was attended to, it would be seen it was intended only to prevent their carrying away negroes and property that should be taken in future, and could have no reference to those captured during the war and before the Treaty, the property of which had vested in the captors. That point was so clear as not to admit of any doubt; on any other construction they might claim all the property plundered during the war, which no one pretended. For his own part, when he first read it, and ever since, he was of the same opinion. He should, therefore, consider the non-payment of British debts and the detention of the Western posts as the only two points in dispute arising from the inexecution of the Treaty of Peace.

They observe, that in forming the Treaty now before them, the parties went on general principles. There were two points unsettled, viz: British debts unpaid and the British posts not given up. The only mode of settlement was, that the one country should pay their debts, and the other give up the posts, without deciding who were guilty of the first breach of the Treaty. The surrender of the posts was a complete execution on the part of Great Britain; the payment of the debts equally complete on our part; but as it was

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the case that the whole of the debts could not be collected, it was reasonable that the United States should pay for the deficiency; for otherwise the Treaty of Peace would not have been executed. For every one must agree that if they got the posts from the British, and they could only get one-tenth part of their debts, it was not equal on both sides. But Great Britain would have an advantage, because she was to receive interest upon her debt, and they had no allowance made for the detention of the posts. In answer to this, it might be said that there was great difficulty in making any calculation upon the subject; for, if it had been attempted, the British might have been charged with stirring up the Indians to war, which they certainly would have denied. He believed it might be further remarked, that Great Britain had determined never to deliver the posts until the debts were paid. He would ask gentlemen, therefore, whether it was not better to have an accommodation upon the terms which their negotiator had made than go to war? No doubt could be had on the subject.

But it had been said by a gentleman from Virginia [Mr. NICHOLAS] that the sum that must be paid for British debts would amount from five to fifteen millions. He did not think the sum would be equal to the smaller sum, though he had no calculation on the subject; but, let the sum be ever so great, if the debts were just, they ought to be paid.

Suppose the negotiator had said he must have a recompense for the posts having been kept contrary to the stipulations of the Treaty of Peace. This would have brought up the question, who violated the Treaty? And he believed if this inquiry had been gone into, it would not have issued in our favor, for he was sorry to believe we were the first aggressors. For the point being settled that they had not broken the article respecting negroes, it was certain that by laws passed in several States the Treaty was first violated on our part.

This, then, would have been the consequence: It would have appeared that we were the first infractors of the Treaty of Peace, and that we had now no other claim than the posts which the British had kept for their own security. Many gentlemen might think this representation improper in this place; but he believed it to be true, and if true, they ought to make payment of the British debts, however great the loss may be, before they could have any just claim for the surrender of the posts.

It appeared, then, to him, that with respect to the dispute respecting the fulfillment of the Treaty of Peace of 1783, the British had got what they claimed, and we had got what we claimed.

The next point of dispute respected the spoiliations on our commerce in 1793 and 1794. The gentleman last up, from Virginia, [Mr. NICHOLAS,] had said that there was little prospect of getting any compensation for those spoiliations by the provisions of the Treaty. From reading it, he had formed a different idea. In the first place, they had recourse to the British courts of law,

and if satisfaction was not obtained by that means, Commissioners were to be appointed to adjust the amount of the losses which had been sustained, in order to their being paid. But it was objected against these Commissioners that they were to examine into the principles of these captures and spoiliations, when we were convinced that there was no necessity for such examination. This was a very extraordinary objection. He had always supposed that most of the captures were against the Law of Nations; but he believed, notwithstanding, that there were some of them in conformity thereto. If the matter had been submitted to the determination of a British court of law alone, we might have had reason to complain; but the Treaty determined that two Commissioners should be chosen by each party, and the fifth by the other four, or if they could not agree, each party was to appoint one, and determine the choice by lot, and that these should have the power of determining over the British courts of law. Could they have expected the British nation should have said, all the captures we have made are illegal, and we will pay their full amount without examination? Surely not. He thought the provision was a just one, and that they stood a fair chance of getting recompense for the spoiliations committed upon the property of their merchants. But gentlemen had said that all would depend upon the choice of the fifth Commissioner. He could not think so. For he would not have so unfavorable an opinion of his countrymen or of British subjects as to believe that they will judge only in favor of their own nation. He trusted they would decide upon the broad basis of principle, and not upon the narrow one of country. He acknowledged he could not perceive, and he thought gentlemen should not be so desirous of finding fault with the Treaty as to impute any blame on this article. He thought the adjustment proposed fair and honorable to both nations.

With respect to commerce, he should make few remarks, as, not being a commercial man, he could not be supposed to be so well acquainted with it as some other gentlemen in the Committee. But it appeared to him Great Britain had granted us extensive commercial advantages, and that we had granted them no new privileges.

Our territory adjoins the British dominions in Canada, and both nations must have experienced great inconveniences if an intercourse could not have been established. The Treaty has settled a commercial intercourse between the United States and Canada, upon such fair and liberal principles, that it will be found highly advantageous to the United States, and it is altogether probable that we shall not only secure the fur trade, but that we shall obtain the whole trade of Canada. But a gentleman from Virginia [Mr. MADISON] had objected to this article because it had secured to British subjects the privileges of portages, which he said was a condition clogging the surrendering of the posts. This has no relation to the delivery of the posts, but is a part of the system of commercial intercourse established between the two nations, and which, on inquiry, would be found to

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be greatly in favor of the United States in every respect. It evidenced a singular disposition to find fault with the Treaty, to reprobate articles which were manifestly in our favor.

With respect to the East Indies, the Treaty gave them very important advantages. It may be said that they possessed the same advantages before the Treaty in respect to India, that they now possess. But they might then have refused them admission, but now the privilege was secured to them. It had been suggested by the gentleman from Pennsylvania [Mr. SWANWICK] that the East India commerce was of little consequence, upon ground which he thought fallacious. Their commerce to the East Indies was proved beyond doubt to be of great consequence, by the number of ships employed in it; and it was impossible that a commerce which was very lucrative when it was carried on upon sufferance, should cease to be so immediately on its being secured to us by Treaty. Yet the gentleman from Pennsylvania had said the stipulation would prove of no advantage to the United States.

But it is said they were restricted from laying higher duties upon British ships than upon other foreign ships. This appeared to him a matter of very little consequence. The article contained a reciprocal restriction on both nations.

He could not see any sacrifice in these restrictions on our part, though if there had been, we had ample recompense in the East India trade, for which no return is made on our part.

Great fault was found with the Treaty, because it did not provide for a free trade to the West Indies, (for he need not say anything on the twelfth article, as it ceased to exist.) What claim had they to a trade in the West Indies? He did not see that they had any right to call upon the British Government to open their ports to them. Great Britain was a sovereign nation, and had a right to keep us from her ports if she pleased. No doubt it would be extremely advantageous to the West Indies to have a free trade with this country, but it would be an injury to Great Britain; therefore, having founded Colonies, and being at a great expense in supporting those Islands, they could not expect she would suffer America to reap all the advantages which she derives from her commerce with them.

The same objections might be brought against the Spanish Treaty. It would be as advantageous for us to enter the Spanish ports in South America or the West Indies as it would be to enter the English ports. Why did not gentlemen, then, object to the Spanish Treaty? Yet this was accepted unanimously. He left gentlemen to determine, therefore, whether this objection was well founded.

Another strong objection to the British Treaty was founded upon the article doing away the power of sequestration in either country. He believed no real objection could lie against this article; because it only forbade the doing of a thing which would prove a real evil. Though he believed sequestration to be contrary to the Law of Nations, yet he would not consider it on that ground, nor

in a moral point of view, but merely on the principles of policy.

Should a nation contemplate the passing an act to confiscate debts, he believed it would be found so difficult in execution, that it would produce so much mischief, and open the door to so many frauds, that it would bring so little money into the Treasury, and at the same time lay the foundation for a dispute with the other nations so difficult to be adjusted, that, on the ground of policy, they would never adopt the measure. But, at any rate, the present article was reciprocal, because Great Britain was equally restrained in the exercise of this power. But it had been said that it was unequal because they are creditors to us, and we are not to them in equal amount. It ought, however, to be considered that this article operates favorably to us in this respect. The restraint on the confiscation of debts gives them such security that they will give us credit on more favorable and liberal terms; and, in the present state of things, all agreed that credit was advantageous for this country. He therefore thought it could be no objection to the Treaty to restrain the exercise of a power which can never be exercised consistently with sound policy.

Very little could be said with respect to contraband articles. The Law of Nations had not settled what articles were contraband. Different Treaties stipulated differently on that head. He was willing to allow that there was a difference in this respect between the Treaty with Spain and that with Great Britain. But as this always must depend on the agreement of nations, it could be no well-grounded objection to this article.

It had been said that the article with respect to provisions contained a new principle with respect to the Law of Nations unfavorable to this country. If gentlemen would attend to the article, they would see that this charge was unfounded. The whole of the article, he said, went to adopt this principle: that such articles only should be contraband as the Law of Nations deemed to be so, and when provisions were carried into their ports which were contraband, they should be paid for, allowing a reasonable mercantile profit thereon, instead of being confiscated according to the Law of Nations. So far from being objectionable, therefore, he thought the article a very good one. The new principle introduced operated directly in our favor.

So with respect to the article of neutral vessels making neutral goods. Nothing more was necessary to be said upon this article than that it was the Law of Nations, and the British were not willing to alter it. And what reasonable charge could be brought against them on account of this unwillingness? Besides, it was a matter of uncertainty whether we should have any greater advantage by such a change than we should have by keeping the article in its present form.

It was made a serious objection by the gentleman from Pennsylvania, [Mr. SWANWICK,] that there was a contradiction between the English and Spanish Treaties. This contradiction, he said, was in the article of contraband goods. Cer-

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tain articles, he said, were made contraband in the former which were not in the latter, and which would prevent him from giving it his vote. He wished to know wherein this contradiction consisted? There was a difference, it was true, but he could not see with what propriety that difference could be termed a contradiction, because both Treaties were capable of being carried into effect without clashing with each other. To be contradictory, the two Treaties should require contradictory acts to be done by the nation. Suppose the Spanish Treaty had contracted with the United States that no British vessels should enter the Mississippi, and they had contracted in the British Treaty that they should have full liberty to navigate that river, the one Treaty could not be carried into effect without breaking the other; but whilst both could be carried into effect, they could not be deemed contradictory. Thus it would appear that the Treaty had made no alteration with respect to the Laws of Nations, but in certain cases to moderate their rigor and render them more beneficial to us.

Mr. SWIFT said he had made these few remarks on the subject before them as they had weight upon his mind. He did not believe there was any thing in the Treaty injurious to the interests or honor of the United States, but, on the contrary, that there were a number of regulations which would be considerably beneficial to the country. But he did not think they were to be influenced by ingenious arguments on the occasion to provide the Legislative means of carrying the Treaty into effect. It presented itself in a form to them which called for their agreement and adoption with irresistible force. They ought to consider what will be the consequence if they make the necessary appropriations for carrying the Treaty into effect, and what will be the probable result if they refuse.

He would ask what mischief would arise by their adoption of the Treaty before them? Our independence or liberty, said he, would be secure. The British posts, which are of the first consequence to this country, would be given up to us. The value of these posts was incalculable with respect to the settlement of the Western country. Our merchants would have recompense made to them for the spoiliations committed upon their property in the West Indies, which, if not made good by the British, must be paid by us. An advantage interesting to commerce, by permission to trade to the East Indies, upon the same terms with their own ships, and no difference in other ports. The consequence must be, that this country will continue to flourish and be happy.

But let us consider, said he, what will be the event if the Treaty shall be rejected. We shall lose the British posts; we shall lose all compensation for spoiliations in the West Indies. He would not pretend to say that the British nation would proceed to immediate hostilities against them; but he was of a different opinion from the gentleman from Virginia, [Mr. MADISON] that the only consequence would be a renewal of peaceable negotiation. He was willing to appeal to all the

world whether this was likely to be the case. He was of opinion that the Executive of the United States would not proceed to further negotiation. Indeed, where could be found a Minister who would cross the water upon such a business? What would be the feelings of that proud and imperious nation? Would she receive these proceedings with calmness? No; she would treat them with indignation and contempt, and for years to come, he was of opinion, no Treaty could be obtained.

But would the matter stop here? We know very well, said he, from their past conduct, that they would be committing acts which would be unjustifiable against us. We may expect, said he, spoiliations upon our ships, and impressments of our seamen. The Indian war would be rekindled on our frontiers. They would be continually provoking us, and he did not think the period far distant, when, from going on from insult, they should come to a state of war.

Some gentlemen have thrown out an idea that Britain would not proceed to war against us, because contrary to her interest; but it was well known from the whole conduct of that nation that they were far from dreading a war with us. At a time when we were discussing commercial regulations, which were to operate upon their fears to engage in a war with us, it was a fact that they were meditating war against this country. Even now, at this time, the capture of vessels, and the impressment of our seamen, not only evidence that they do not fear to make war upon us; but, if the Treaty should be rejected, the continuance of these practices will provoke the retaliation and end in war.

But it had been said that the daily impressment of our seamen was sufficient reason to withhold the appropriations. He would ask gentlemen what compensation they would get for this injury by refusing to execute the Treaty? None. But, if they executed the Treaty, the door would be open to procure redress for any grievance which we had sustained in as effectual a manner as if we rejected the Treaty.

The gentleman from Virginia [Mr. MADISON] had reminded the House that the PRESIDENT had hesitated to sign the Treaty. He should wish to know how he knew the fact? And how he could presume to say, that if the Treaty was now to be ratified, he would refuse to sign it. It seemed extraordinary that that highly respected character should be thus brought into view. He believed that they had the most unequivocal proof that the PRESIDENT wished the Treaty to be carried into effect; and he thought they had no ground upon which to insinuate the contrary.

Mr. S. concluded with observing that they were upon the most important and interesting question that was ever discussed in that House. He felt a solicitude and anxiety about its determination that he never felt before on any occasion; for he believed on the decision depended peace or war and the happiness or misery of millions!

When Mr. SWIFT concluded his remarks, the Committee rose, and had leave to sit again.

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MONDAY, April 18.

Mr. BALDWIN presented a bill for fixing the Military Establishment of the United States, which was twice read, and referred to a Committee of the Whole on Tuesday.

Mr. HILLHOUSE presented bills for carrying into effect the Treaties with Spain and with certain Indian tribes, which were twice read, and committed to a Committee of the Whole to-morrow.

KIDNAPPING NEGROES.

Mr. GALLATIN said the member from the State of Delaware being so much indisposed as not to be able to attend the House, had requested him to represent that the Legislature of that State had taken measures to prevent the future kidnapping of negroes and mulattoes, and that they wished Congress to make provision on the subject. He believed it would be best to bring the business before the House by way of resolution. He therefore proposed one to the following effect:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the propriety of making effectual provision for preventing the kidnapping of negroes and mulattoes, and of carrying them from their respective States contrary to the laws of the said States."

The resolution was agreed to.

BRITISH SPOILIATIONS.

Mr. W. SMITH presented a petition from sundry merchants of Charleston, praying for such assistance on account of the spoiliations committed upon their property by the British in the West Indies, by loan or otherwise, as Congress shall judge proper. Referred to the Committee of the Whole on the state of the Union.

TREATY WITH GREAT BRITAIN.

The House then resolved itself into a Committee of the Whole on the state of the Union; when the resolution for carrying the British Treaty into effect being under consideration—

Mr. GILES said it was much to be regretted that all the information which could throw light upon the subject of discussion should not be before the Committee. A sense of responsibility arising from the peculiarly delicate nature of the question had induced the House to take every step with more than a common degree of caution. Before they proceeded to deliberate upon the expediency or in expediency of providing for carrying the Treaty into effect, they made a request to the PRESIDENT for the papers which attended the negotiation. This request has been refused; not because the call itself contained any thing unconstitutional; not because the contents of the papers called for were of such a nature as to render the disclosure thereof at this time improper. Neither of these causes being intimated in the Message, but because principles were advocated by individual gentlemen in the course of the argument inducing the call which the PRESIDENT thought not warranted by the Constitution. Mr. G. said, he did not propose to animadvert upon the conduct of the Executive in departing from the resolution

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itself, and in noticing the arguments of individual members, nor upon any other part of the proceedings of the Executive relative to the call of the House and his refusal. He only meant to remark, that being perfectly convinced of the propriety of the call itself, of the utility of the information embraced by it, and not being satisfied by the arguments of the PRESIDENT of the propriety of withholding the papers called for, he should have been willing to have suspended all further proceeding respecting the provision of the Treaty until the papers should be laid before the House. He would have firmly placed himself on that ground, and in that position hazarded his responsibility. The extreme sensibility excited in the public mind by the agitation of the Treaty question, he had supposed, would have furnished an irresistible argument in favor of complying with the request of the House, provided no inconvenience would have attended the disclosure; and in his opinion, under all the circumstances of the case, the House would have been completely justified in suspending all further proceedings upon the question of providing for the Treaty until they received that information which they deemed necessary to guide their deliberations. But as the House had thought proper to take a different course, and had proceeded to the consideration of the question, with such lights as they possess, he would explain the motives which would probably finally influence his vote.

Mr. G. said, he should discuss the subject in two points of view. He would first examine the contents of the Treaty itself, and then the probable consequences of refusing or of giving it efficacy.

In examining the contents of the instrument itself, he proposed to go through it article by article, unless the task prescribed to himself should exceed the bounds usually allowed to members for the delivery of their sentiments. He should do this, because he wished to treat the subject with the utmost candor, and to avoid any possible imputation of intending to exhibit the bad and avoid the good parts of the Treaty, if any such there were. He meant, however, to state merely the purport of many of the articles, without any animadversion, and to dwell only upon such as appeared to him the most material.

The first object of the negotiation respected the inexecution of the Treaty of Peace.

The preamble professes to waive the respective complaints and pretensions of the parties as to the inexecution of the former Treaty, and of course establishes a principle, as the basis of the present Treaty, that either both parties were equally culpable or equally blameless, in respect to the inexecution of the Treaty of Peace. He did not mean to remark upon the propriety or impropriety of this admission on the part of the United States. He would observe, however, and he thought with great force, that the stipulations in the present Treaty do not correspond with the principle professed as its basis.

On the part of Great Britain, two articles had been unexecuted: The restoration of certain pro-

perty in possession of the British at the close of the war, and the surrender of the Western posts. On the part of the United States, one article was suggested to remain unfulfilled; it respected the promise that no legal impediment should be thrown in the way to the recovery of debts due to British subjects.

The claim of compensation for the property carried away in contravention of the Treaty of Peace is wholly abandoned, and the value of the surrender of the posts very much lessened by the annexation of conditions which made no part of the stipulations of surrender in the Treaty of Peace. The United States are more than bound to fulfil the article heretofore unfulfilled by them; for, instead of continuing the Courts open for the recovery of debts in the usual way, as was the promise in the Treaty of Peace, they were made to assume the payment of all debts, interests, and damages, in cases of insolvencies, and a mode of adjustment is proposed for ascertaining the amount which furnishes the greatest latitude for frauds against the United States which could be devised. This will appear in the future examination of the subject. Hence it is obvious that the stipulations of the Treaty abandoned the very principle of adjustment assumed by a gentleman from Connecticut, [Mr. SWIFT.] In replying to a remark to this effect, made by a gentleman from Virginia, he observed, that he believed if an inquiry were made into the first breach of the Treaty of Peace, it would not issue favorable to the United States, and proceeded to argue upon the presumption that the first breach was properly imputable to the United States. Mr. G. remarked, that he thought it required very strong assurances to justify an imputation of that sort against the United States, such as he believed the present occasion did not afford. In the first place, he observed, that the Treaty itself disavowed the imputation; all claims and pretensions arising from the first breach are disclaimed, of course he thought it unnecessary, if not improper, to defend the Treaty on a ground disclaimed by itself.

But upon what ground does the gentleman place his admission of the first breach of the Treaty of Peace upon the United States? The gentleman denies the uniform construction put upon the article for the restoration of certain property which was carried away from the United States at the close of the war; and asserts that the article never was intended to bear that construction. If the gentleman could establish his assertion, and extend it to the other article unfulfilled by Great Britain, he might probably establish his position.

Mr. G. would first premise, that if the article did not intend the restoration of property mentioned in it, the insertion of it in the Treaty was not only unnecessary, but mischievous, as it would necessarily produce embarrassment to the parties to the instrument.

The British Army, at the termination of the war, was at New York; the negroes, which constituted the species of property in question, were in the Southern States; so that, if the article did not include that species of property taken in the

course of the war, and in the possession of the British at the end of it, it was worse than nonsense. It never could have been supposed that, upon the first dawn of peace, the British would have left New York and invaded the Southern country, for the purpose of plundering the inhabitants of their negroes. The peace article itself was a sufficient security against this conduct, and of course no specific provision could have been necessary for that purpose. This was not only the uniform construction of the article by the United States, but, as he always understood and believed, Great Britain had acquiesced in the construction until the negotiation of the present Treaty. As an evidence of these facts, Mr. G. observed, that American Commissioners were permitted to make a list of the negroes in the possession of the British at the close of the war by the British commander; that the list was entered upon the files of Congress; that there were resolutions of Congress claiming compensation for the property carried away in contravention of that article in the Treaty of Peace, perhaps without even the intimation of a doubt as to the construction; that, during the administration of Lord Caernarthen, he had always understood that the claim of compensation for property carried away, was admitted, whenever British subjects were indemnified for the debts due to them from citizens of the United States. But here he had to regret the want of the papers called for by this House, as they contained all the evidence upon which this important fact depends. Hence it appears that Great Britain herself had yielded her assent to this construction, and ought not to have been permitted to have withdrawn it afterwards. These circumstances seemed to him to be conclusive, and ingenuity itself would pause for arguments against facts so stubborn and irresistible.

The gentleman from Connecticut had said, that he thought the present Treaty as good a one as the United States had any right to expect. If the United States were as flagitious with respect to the inexecution of the Treaty of Peace as the gentleman supposes, and Great Britain as blameless, he would acknowledge that the mode of adjustment had inflicted upon them a just punishment for their criminal conduct. This, however, was but a negative compliment to the Treaty, and could be gratifying only to those who concurred with the gentleman in the imputation thrown upon the United States. But it could afford no consolation to those who contend that Great Britain has been at least as culpable as the United States, and particularly when they reflect the present Treaty itself professes to disavow the imputation.

But if even the imputation is conceded, it would have been thought but reasonable to confine the punishment to the new adjustment of the articles unfulfilled, without extending it to a train of humiliating and imperious commercial concessions, which are altogether unconnected with the subject, and not warranted by necessity.

Mr. G. then proceeded to the examination of the articles of the Treaty. The first article, he

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said, was declaratory of peace, &c., between the two countries, which, he said, was a very desirable thing, provided it could be established upon principles compatible with the national honor and the national interests. The second and third articles contained the stipulations for the surrender of the Western posts, and the conditions accompanying the surrender.

The surrender of the Western posts, he said, would be an extremely desirable object, if conformable with the Treaty of Peace, and it were unattended with any conditions.

Here, he said, he was desirous of giving credit to every part of the instrument which would admit of it, and was not disposed to exaggerate its imperfections. He was willing to admit that the surrender of the posts, even with the conditions annexed, was of some importance; but he would assert that the surrender lost a great portion of its value to the United States, in consequence of the conditions attached to it. He observed, two objects of primary importance were to be effected by the unqualified surrender of the posts. The one was to obtain the influence over the Indians in their neighborhood, which the British now possessed. The other, the participation, at least, in the fur trade carried on with those Indians. The conditions accompanying the surrender, will, in his opinion, very much impede the one, and completely defeat the other object.

The stipulation in the second article, which authorizes British subjects who are now living within the precincts or jurisdiction of the posts, still to continue and to reside there, with the free use of their property; and to elect either to remain British subjects or to become American citizens at pleasure, will, in his opinion, very much impede, if not wholly obstruct, the salutary influence of the United States over the numerous tribes of Indians in that quarter; which is one great object hoped for from the possession of those posts. The effects of the stipulation will appear more obvious, when it is compared with the stipulations in the next article, by which the trade with the Indians is regulated. The second object, to wit, the participation in the fur trade, he believed, would be completely defeated by the regulation of that trade in the third article; that article stipulates an equality of duties between American citizens and British subjects, a free communication through that country, upon an equality of portages and ferriages. These conditions, in his opinion, would secure a complete monopoly of the fur trade to Great Britain; because the superiority of the British capital employed in that trade, and the inferiority of duties paid upon goods imported for that trade into Canada, would, in his judgment, wholly exclude American citizens from a participation in that trade, through any channel in the United States. The United States had no mode left to counteract this monopoly but by a system of drawbacks, which appeared to him, from the nature and trade of the country, to be almost impracticable; or if not absolutely impracticable, it would compel us to purchase the trade at a price greater than it was worth. In appeared to

him that Great Britain had foreseen these consequences, and that these articles are as well calculated to produce them, and to obstruct the views of the United States, as sagacity itself could have devised. Hence it appears to him that the value of an unqualified surrender of the posts is very much lessened by the accompanying conditions. The gentleman from Connecticut observed, that the surrender of the posts was absolute, and that no conditions were annexed to it. It is a sufficient answer to say, that his observation is a mere criticism upon terms. If they be not conditions of the surrender, they are accompanying engagements, and are to be executed with good faith by the United States.

The fourth and fifth articles related merely to the ascertainment of the boundary line, and, therefore, he should pass over them without comment.

The sixth article was, in his judgment, highly objectionable. This article assumes the payment of all debts, interests, and damages, due from American citizens to British subjects previous to the Revolution, in all cases where insolvencies have ensued, and where legal impediments to the recovery of the debts have existed. He would remark, that this was an assumption of debt by the public, which they did not owe, and never promised to pay, and that it is bettering the condition of the British creditor under the Treaty of Peace, without any obligation on the United States to do so. He said that, as amongst the fashionable calumnies of the day, this article had been a fertile source of misrepresentation against the State he had the honor to represent, he was anxious to place this subject in its true light; and, as he professed to be well acquainted with it, he hoped to be indulged with some minutiae of explanation. He said, this subject presented two aspects to the public; the one, as it respected States, the other, as it respected the individuals of the United States. As to the first, he admitted that if a greater proportion of debts of this description were due from Virginia than from other States, which had not, however, been ascertained, and which he doubted, in the same proportion, as a State, Virginia would receive an advantage over the rest of the States, by a common assumption of the debts; but as it respected the individuals of that State who were not debtors, they stood precisely on the same footing with individuals in other States, because they were, in common with others, to contribute to the payment of debts which they never owed. It is of very little consolation to them that they live in the neighborhood of those whose debts they are to contribute to pay; for propinquity or distance can make no difference in the state of interest between the individuals who do not owe, but who are to contribute to pay. As a very small proportion of the inhabitants of Virginia come under this description of debtors, the phenomenon of an opposition of that State, to this particular article, is thus explained.

It is to be remarked, that this article contains no limits as to the amount of debts assumed by it, nor are there any precise data furnished for calcu-

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lation. But it has been said, that if the debts be due, they ought to be paid, be the amount what it may. He said, that gentlemen should reflect, that the amount would depend very much upon the mode of adjustment, and that the mode adopted by the Treaty was the most objectionable that could be devised.

He observed, that the principle established for the adjustment of the debts, instead of preserving the conflicting interests of debtor and creditor, would produce a complete union of interests; and of course would furnish the greatest temptations to frauds against the United States from both debtor and creditor. Hence the amount of debts assumed by the United States would probably be greatly increased beyond what would be the amount, if the debtor and creditor should be left to the ordinary course of judicial proceedings to adjust their own differences, under the principle of opposing interests. To entitle the creditor to a claim upon the United States, it is necessary for him first to establish his demand against his debtor, and then to show that his debtor was solvent at the commencement of the late war, and has since become insolvent; and that some legal impediment had intervened to prevent the recovery of the debt. Hence it becomes the interest of both debtor and creditor to establish these facts, because the debtor will be relieved from his debt, by the assumption of the United States, and the claim of the creditor will be transferred from the individual to the United States, which he would, in all cases, prefer, particularly as the assistance of the debtor will often become necessary to facilitate the establishment of the debt. This, he said, was the natural operation of the union of interest produced by the assumption of the debts by the United States, and there was more danger to be apprehended from it, from the impossibility of checking it, by any vigilance on the part of the United States and from the peculiar circumstances attending those debts.

The greatest proportion of debts remaining unpaid, he believed, stood upon open accounts. In many cases, when the debts were evidenced by specialties, payments had been obtained, either by the usual course of judicial process, or by compromise between the parties. There were two circumstances attending the open accounts which would give great scope to the fraudulent combinations between the debtor and creditor. The one respected the evidence, the other the substantial causes of difference in the accounts of the creditor and debtor. In the reign of George the II. an act was passed for the more easy recovery of debts due to His Majesty's subjects from His Majesty's plantations in America. This act authorized the merchant in Great Britain to establish his debt against a colonist by affidavits taken before the commencement of the suit, and authenticated in the usual mode. This deprived the defendant of all opportunity of cross examination, so essential to the discovery of truth, and the jury of all knowledge of the character and credibility of the deponent.

In Virginia, the affidavits taken in pursuance

of this act, have been deemed incompetent to the establishment of the debt, because the act itself destroys the very nature and properties of evidence. Hence, in all disputed claims founded upon this act, judgments have been rendered for the defendants. If this should be deemed a legal impediment to the recovery, this whole description of debts would probably come under the description of debts assumed. He observed, that the words used in the Treaty were calculated, in his opinion, with a view to this construction, and must have been dictated by persons better informed of the nature of this business than he presumed the Envoy Extraordinary of the United States could have been.

The words alluded to are the following :

"The said Commissioners, in examining the complaints and applications so preferred to them, are empowered and required, in pursuance of the true intent and meaning of this article, to take into their consideration all claims, whether of principal or interest, or balances of principal and interest, and to determine the same, respectively, according to the merits of the several cases, due regard being had to all the circumstances thereof, and as equity and justice shall appear to them to require. And the said Commissioners shall have power to examine all such persons as shall come before them, on oath or affirmation, touching the premises; and, also, to receive in evidence, according as they may think most consistent with equity and justice, all written depositions, or books, or papers, or copies or extracts thereof, every such deposition, book, or paper, or copy or extract, being duly authenticated, either according to the legal forms now, respectively, existing in the two countries, or in such other manner as the said Commissioners shall see cause to require or allow."

The other circumstances arose from the nature of the remittances. These were generally made in tobacco. The sales of this article were intrusted solely to the merchant residing in Great Britain, and the American shipper had no check whatever upon the merchant making the sale. Upon tendering these accounts, the tobacco is often set down at a price very inferior to the average price of that article in Europe, at the time of making the sale. A great number of controversies have taken place upon this ground, which remain unsettled; but, if the United States should assume the debts of the individuals thus circumstanced, they would have no inducement to contest these accounts in a course of judicial proceedings, and the promise of exoneration from the creditor, will often induce the debtor to facilitate the establishment of the claims against the United States. He said he had not overlooked the clause in this article of the Treaty, which compels an assignment of the claim from the creditor to the United States, but that would have little or no operation to check the practice invited by this article, because the debtor is presumed to be insolvent before the assignment is made, and he believed the United States would be but unsuccessful collectors from insolvent debtors.

From these circumstances, he concluded, that this assumption of debt, without any obligation for so doing, was extremely improper, particularly

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when it is recollected that this article sweeps away all acts of limitation, and relates to the whole extensive scene of business carried on in the United States, from the extremes of New Hampshire to the extremes of Georgia, for an unlimited time before the Revolution. He observed, if he were to make a conjecture as to the amount, it would be a loose one; but if he were to choose between indemnification to the American merchants for recent spoliations committed upon their commerce, or the payment of these debts, he should not hesitate to prefer the first alternative; because, to that there were known limits; to the other there were not, nor any data for calculation under the mode of adjustment prescribed by the Treaty. He, therefore, cautioned gentlemen against the assumption of this unascertained debt, for he believed it would be attended with a responsibility which they could not answer to their constituents, nor would the responsibility be alleviated by the recollection of the merits of the individuals for whose benefit it is made. The increase of the debt of the United States by these artificial means, without any obligation to do so, he thought highly objectionable.

The 7th article of the Treaty promises compensation for the spoliations committed upon American commerce, in the course of the present war. This would be a very desirable object, if it could be obtained, but, when he observed that before compensation was to be obtained, a process was to be had at the Admiralty Courts of Great Britain, and that the amount would depend very much upon the temper of those Courts, he doubted very much whether this boasted article would not be dwindled down into very little importance. He should only observe further, that the merchants, for whose benefit this article was more immediately intended, and who had petitioned Congress to make provision for carrying the Treaty into effect, seemed not to rely implicitly upon the provision upon this subject; because, in every memorial, they had held up the expectation of ultimate indemnification from the United States.

The 8th article pointed out the mode of paying the Commissioner to be appointed under the Treaty, to which he had no objection.

The phrasology of the 9th article was somewhat curious, and the object he could not perfectly understand. It is in the following words:

"It is agreed that the British subjects who now hold lands in the Territories of the United States, and American citizens who now hold lands in the dominions of His Majesty, shall continue to hold them according to the nature and tenure of their respective estates and titles therein; and may grant, sell, or devise, the same to whom they please, in like manner as if they were natives; and that neither they nor their heirs or assigns shall, so far as may respect the said lands and the legal remedies incident thereto, be regarded as aliens."

If it be the object of this article to vary the existing laws upon the subject of landed estates, it is wholly improper. If not, it is wholly unnecessary. He did not know how far this article might affect the proprietary estates. If it be intended to give any new impulse to those estates, it might be

attended with serious effects. Pennsylvania was the only State which had regularly extinguished the proprietary claim. If a latitude of construction should be given to this article, it might materially affect the States of Delaware, North Carolina, and Virginia. He would not pretend to say that it would bear the interpretation he had hinted at, but as an individual he would rather it had been omitted. He further observed, that there was a semblance of reciprocity assumed by this article; but no reciprocity in fact.

The 10th article, he said, was of a very extraordinary complexion. It was remarkable, both as to the matter it contained, and the manner in which it was expressed. It is in the following words:

"Neither the debts due from individuals of the one nation to individuals of the other, nor shares, nor moneys which they may have in the public funds, or in the public or private banks, shall ever in any event of war, or national differences, be sequestered or confiscated, it being unjust and impolitic that debts and engagements contracted and made by individuals having confidence in each other and in their respective Governments, should ever be destroyed or impaired by national authority on account of the national differences and discontents."

Mr. G. remarked, that this article also had assumed the resemblance of reciprocity; but no reciprocity in fact.

British subjects have great sums, both in public and private funds, in the United States. American citizens have little or no property in public or private funds in Great Britain. Hence the evident and substantial inequality of this reciprocal stipulation. On the other hand, American citizens have a great share of property on the water, with very little naval protection, and of course subject to the naval superiority of Great Britain.

If, therefore, Great Britain had stipulated, in case of war, that in consideration of a refusal on the part of the United States, to sequester property of British subjects upon land, she would not molest the property of American citizens upon water, there would then have been a substantial, instead of a nominal reciprocity; as the article now stands there is an important right conceded, and no compensation obtained.

This, article, however, has been highly applauded by a particular description of persons interested in it, in consequence of the affectation of morality professed by it.

It has been said to be dishonest and immoral to take the property of individuals for the purpose of compensating national wrongs. He observed, that he could see no difference between the morality of taking the property of individuals upon water, and the property of individuals upon land. The difference of the element could make no difference in the morality of the act. However strongly, therefore, this moral impulse was operating upon the American Envoy whilst engaged in the construction of this article, it had entirely dissipated before he had arrived at the 25th article; for, in that article, the principle of privateering is not only admitted, but its operation facilitated; so that, unless the interest of Great Britain is to be the

criterion of the Envoy's morality, what he has gained by the morality of the 10th article must be at least balanced by the immorality of the 25th. But, Mr. G. remarked, that sequestration was always admitted as part of the Law of Nations, and hence he presumed it was not immoral under certain circumstances. He said, it appeared to be the opinion of some, that where the property of an individual was sequestered on account of the act of his nation, that the individual was to sustain the loss, but that was not the case. The sequestration itself imposes upon the Government, to which the individual belongs, an obligation of reimbursement. Hence the sequestration does not ultimately rest upon the individual, but upon the Government, for whose wrong the property was taken. This is also conformable to the Laws of Nations. It was the course pursued by Great Britain for all sequestrations made during the American war, and is the course which would be pursued by all nations.

Mr. G. said, that war itself was immoral in most cases; and justified, in his opinion, only in the case of self-defence; but if a stipulation had been inserted in this Treaty which prohibited the United States from declaring war, it would have been justly and universally reprobated. The present article prohibits the United States from resorting to the best means not only of preventing war, but the most efficacious means of supporting it. Hence, the surrender of the right was the most impolitic concession, and is infinitely aggravated by its being a voluntary concession; no equivalent being received in return. Mr. G. said, it was dishonorable to the United States because it evidenced a want of confidence in the discretion of the constituted authorities. The right of sequestration is admitted to be essential to national sovereignty; but, lest it should be indiscreetly used by the United States, its guardianship is transferred to Great Britain. Mr. G. said, he viewed sequestration as an extraordinary remedy, to be resorted to only on extraordinary occasions. And although he would admit that but few cases would justify a resort to it, yet it was one of our best instruments of defence, considering our relationship to Great Britain, and ought not therefore to have been surrendered. He said, too, that this restraint was imposed upon the United States for an unlimited time, and was the more objectionable, as it was a species of legislation against the discretion of legislation.

But, Mr. G. said, whatever might be the difference of opinion as to the matter of this article, the most partial admirer of this Treaty must be very unwilling to defend the very extraordinary Envoy of the United States for the manner of expression. This was a measure proposed in the House of Representatives, as one of the means of self-protection against British depredation. This was a circumstance known to the Envoy, yet he not only bartered away the measure, but, in doing so, branded the proposition then depending before the House of Representatives with the terms "impolitic and unjust." This was an unnecessary imputation, which no Minister could have been

justifiable in applying to his Government. Suppose our Envoy had insisted, and the British Minister had agreed, that the order of the 6th of November for taking neutral vessels for adjudication, was piratical and ought not to be renewed? He would not pretend to say how far the order would justify the epithet: But, what would have been the fate of a British Minister under such circumstances? Utter disgrace would have been one inevitable consequence; but an American Minister is not only tolerated for a similar conduct, but by some who even affect to be Americans, applauded. Mr. G. remarked, in the present agitation of the public mind, truth seemed to be obscured by party irritations, and personal partialities; but he was convinced, that whenever it was so far collected as to take a calm review of this transaction, there would exist one universal voice of condemnation.

The 11th article contains a general stipulation for the liberty of navigation and commerce between the two countries.

The 12th article was the first of the commercial articles. This article is suspended; but the want of a substitute will justify a few remarks. Mr. G. remarked, that he was not practically acquainted with commercial detail, and of course should not go much into detail upon the commercial articles; there were, however, some grand principles which applied to commerce as well as to every other business or science, which would guide him in a few remarks upon that subject. He observed, that the 12th article was intended to regulate the trade between the United States and the British West India Islands; so far, therefore, as it permitted that trade to be carried on, it was intended as a concession to the United States; the rigid restrictions accompanying the concession, however, rendered it so paltry that the Senate rejected the concession, although the Envoy had accepted it. But, in what situation has the rejection left the United States? They are now engaged in a Commercial Treaty with Great Britain, in which they have surrendered almost every commercial advantage they had to bestow, and are still wholly excluded from the West India trade. He had always understood that the West India trade was the great object of commercial negotiation with Great Britain, but now that is formally relinquished. It may be said, that further negotiations upon this subject are promised; but what inducement will Great Britain have to relax her Colonial regulations, provided this Treaty should be carried into effect? She had already without this relaxation placed the commerce between the two countries precisely upon the footing she wished; and the United States have yielded every commercial advantage which might have been exchanged for that relaxation. Of course, Great Britain will have no inducement to make, as the United States have nothing to offer, for the relaxation.

The gentleman from Connecticut [Mr. SWIFT] justified the conduct of Great Britain with respect to the West Indies upon the ground of her Colonial rights. He observed that Great Britain had a right to prevent the trade to the West Indies alto-

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gether. This is true, and she had a right to prevent the trade to London, and the United States have a right to interdict her trade to this country. But, he would ask, if there be no relaxation of these rights, of what advantage is the Treaty? The very object of a Commercial Treaty is a reciprocal indulgence in the exercise of these rights, and the peculiar dependence of those Islands upon the United States for their very subsistence, would command a participation in that trade, if properly used.

The resort to the United States for supplies to facilitate the present operations in the West Indies, is a striking evidence of the importance of the United States to their existence.

It has been observed, that the Spanish Treaty has not opened the Spanish Islands to the United States. This is true, and it would have been a desirable thing if it had effected this object. But it should be recollected, that the United States have made no commercial concessions to Spain, and that the Treaty does not profess to contain any material commercial regulations.

The 13th article contained regulations for the East India trade. This article has been held up as an apology for all the commercial defects of the Treaty. He did not pretend to be perfectly acquainted with the nature of this trade; but, as far as he understood the explanation of the advantages of this article, he could not concur in the result. The common remark is, that this article secures to the United States a right which before was a courtesy. This remark possesses some plausibility, but no substance; what is called courtesy, is trade founded upon the interest of the parties. He believed that a courtesy in trade, the basis of which is the interest of the party granting it, is a better security than forced regulations by Treaty, without the basis of interest for their support.

It is admitted that the trade to the East Indies, before this Treaty, was extremely lucrative, and of course could not be the effect of the Treaty. But the restrictive and monopolizing hand of Great Britain is seen to extend itself, even to this branch of commerce, in the prohibition of the exportation of East India articles to an European market in American bottoms—which is a restriction which does not now exist, and is another restriction upon the citizens of the United States trading thence, which, in his opinion, will lessen very much the boasted security of right under this article whenever the interest of the East India Company would justify the prohibition of that trade. The restrictions alluded to are in the following words:

"Neither is this article to be construed to allow the citizens of the said States to settle or reside within the said Territories, or to go into the interior parts thereof, without the permission of the British Government established there; and if any transgression should be attempted against the regulations of the British Government in this respect, the observance of the same shall and may be enforced against the citizens of America in the same manner as against British subjects or others transgressing the same rule. And the citizens of the United States whenever they arrive in any port or har-

bor in the said Territories, or if they should be permitted in manner aforesaid, to go to any other place therein, shall always be subject to the laws, government, and jurisdiction of whatsoever nature established in such harbor, port, or place, according as the same may be. The citizens of the United States may also touch for refreshment at the Island of St. Helena, but subject in all respects to such regulations as the British Government may from time to time establish there."

The 14th article relates to the commerce and navigation of the two countries generally, and will be passed over without remark.

The 15th article was, in his judgment, highly objectionable.

This article restrains the United States from imposing upon British goods higher duties, &c., than upon those of other foreign nations. It authorizes Great Britain to equalize the existing unequal duties between the American and British bottoms, and restrains the United States from reviving the existing inequality. One objection to this article is, that it abandons, without an equivalent, the advantages resulting from the peculiar nature of the trade carried on between the United States and Great Britain. This trade consists, on the part of the United States, mostly of raw materials, which employ the artisans of Britain, and on the part of Britain, of the manufacture of artisans in the most finished state; and, in addition, there is always a large specie balance against the United States and in favor of Great Britain. It is calculated that the United States furnish a market for at least one-third of the whole surplus manufactures of Great Britain, and for this the most suitable returns for the British market are made. The loss of so valuable a market could not be supplied in any part of the world. It would naturally be supposed that a trade so favorable would be entitled to some indulgence on the part of the nation receiving the favor, and would command some respect to the nation affording it, provided it had energy enough to avail itself of the advantage; but by this article it is abandoned with a nominal, but no real equivalent. This consideration is greatly strengthened by extending it to the peculiar nature of the trade between the United States and the West Indies, which has been already remarked upon.

Upon this ground, the discrimination in favor of American over British bottoms, has been built; and the growth of American shipping has very considerably increased, in consequence of this policy. Our experience, therefore, is bartered away without even the probable calculation of a countervailing advantage.

The apology made for this article, that the United States have granted no right to Britain which she did not possess before, is entirely delusive. It may be true that no new right of sovereignty is granted to Great Britain; but she is now less at liberty to exercise a right without hazard, by a restriction imposed upon the United States, and which she had failed to exercise until this restriction was imposed. It is remarkable, from the whole complexion of the Treaty, that the advantages gained by Great Britain consist in

restrictions imposed upon the United States, as if her object was to restrain the United States in the exercise of their rights of sovereignty.

The 16th article related only to the appointment of Consuls, and does not require notice.

The 17th article was, in his opinion, objectionable in many respects. It yields a formal assent to the seizure and condemnation of enemy's property on board of American vessels. He had expected to have heard this article apologized for, and not justified. But he was surprised to hear it asserted that it was problematical whether the admission of this principle would be for the advantage or disadvantage of the United States. This was throwing the article into a problem, without attempting to solve it. It was discarding the exercise of the reasoning faculty. From the peculiar situation of the United States in their relations to the rest of the world, the establishment of the principle that neutral vessels shall give freedom for their cargoes, is to them of primary importance; of course, the United States have sedulously exerted themselves in all their foreign negotiations to have that principle formally admitted as the Law of Nations. In every other Treaty entered into by the United States, this principle has been carefully inserted. A formal assent to the contrary doctrine will probably produce a retrograde effort upon all former exertions, which will require a great length of time to counteract. In the relations between the United States and Great Britain, the principle is peculiarly important. Great Britain possesses the most formidable fleet in existence, and is at least one-half her time at war. The United States have an extended commerce, without the protection of a fleet, and from her remote situation from Europe, the great scene of war, as well as from the genius of the American people, are not likely to be involved in European contests. Hence, the disadvantage of the United States from this stipulation will be in proportion to the greater probability of their remaining free from war than Great Britain, and, in proportion to their more defenceless state of commerce. There exists another forcible reason which ought to have prevented this stipulation: its necessary operation upon the present belligerent Powers.

Under this article, French goods in American bottoms are made subject to British seizure and condemnation; but British goods in American bottoms are free from French seizure and condemnation. This was an evident partiality in favor of Britain against France, which, in his opinion, could hardly be warranted by the species of neutrality proclaimed by the Executive as the existing state of the nation. It was not only a neutrality, but an impartial neutrality. If a deviation from the first line of impartial neutrality could be in one case justifiable, he thought every American feeling would have inclined to favor the cause of liberty, and not the cause of despotism.

He said, it was no apology for this article, to say that an article upon the opposite principle could not be obtained. Then let none be obtained.

It is the assent to the principle which constitutes the disgrace, and this injury to the United States. If other terms could not have been procured, French property in American bottoms might have been left to the ordinary operation of the Laws of Nations, without an explicit and invidious stipulation for its seizure and condemnation.

The 18th article defines contraband goods. There was a common, but just objection, made in this article, to wit: that the contraband list was extended, and that several articles were added, which were never admitted before to be contraband. It is to be observed that all these additional articles are amongst the exports of the United States, while most, or perhaps all of them, are amongst the exports of Great Britain. This circumstance proves that the reciprocity assumed by this article, is delusive, and that the advantage is wholly in favor of Great Britain. This article contains, also, some regulations respecting the seizure of provisions in American vessels, under certain circumstances, which are extremely equivocal and suspicious. He said, he presumed this article had furnished the pretext to Great Britain for issuing the late order for seizing American vessels bound with provisions to France. He would not pretend to say that the article justified a construction which might give rise to the order; but the existence of such an order since the signing of the Treaty is universally admitted; but he would assert that, whether the order was to be considered as the practical construction of this article, or an infraction of it, or an infraction of the neutrality of the United States in any respect, it might be attended with the most serious consequences. If this invasion of the neutral rights is to be the first fruits of the Treaty, the most alarming results may be expected from its further operation. The Executive of the United States have declared that even the permission of this conduct by one of the belligerent Powers is a breach of neutrality against the other; and, of course, a just cause of war from the injured nation. This doctrine is so clearly established in a letter from Mr. JEFFERSON, written by order of the PRESIDENT to Mr. Pinckney, dated 7th September, 1793, that he would beg the indulgence of the Committee in reading two or three paragraphs from the letter. It is in the following words:

"This act, too, tends directly to draw us from that state of peace, in which we are wishing to remain. It is an essential character of neutrality, to furnish no aids (not stipulated by Treaty) to one party, which we are not equally ready to furnish to the other. If we permit corn to be sent to Great Britain and her friends, we are equally bound to permit it to France. To restrain it, would be a partiality which might lead to war with France, and between restraining it ourselves, and permitting her enemies to restrain it unrightfully, is no difference. She would consider this as a mere pretext, of which she would not be the dupe, and on what honorable ground could we otherwise explain it? Thus, we could see ourselves plunged, by this unauthorized act of Great Britain, into a war, with which we meddle not, and which we wish to avoid, if justice to all parties and from all parties, will enable us to avoid it. In the case where we found ourselves obliged, by Treaty, to with-

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hold from the enemies of France, the right of arming in our ports, we thought ourselves, in justice, bound to withhold the same right from France, also; and we did it. Were we to withhold from her supplies of provisions, we should, in like manner, be bound to withhold them from her enemies also, and thus shut to ourselves all the ports of Europe, where corn is in demand, or make ourselves parties in the war. This is a dilemma which Great Britain has no right to force upon us, and for which no pretext can be found in any part of our conduct. She may, indeed, feel the desire of starving an enemy nation; but she can give no right of doing it at our loss, nor of making us the instrument of it."

After this unequivocal declaration made by the Executive of the United States, what plea could be made to the French Government to justify an acquiescence in this conduct of Great Britain? Whether it be the result of the construction of the Treaty, or an infraction of it, what apology could this House make for giving efficacy to the Treaty before some satisfactory explanation was made upon the subject? Suppose the Republic of France were to approach the Executive of the United States with this letter in her hand, and say, "Here is your own declaration of your own neutrality; you have unkindly departed from the principles avowed by yourself, in favor of my enemy. You seem to have concurred in a scheme for distressing a whole nation by withholding supplies of provisions, when a better office might have been expected from the United States." Suppose a similar appeal were to be made to this House, whilst deliberating upon the expediency or in expediency of giving efficacy to the new Treaty, which is used by Great Britain to sanctify her conduct; what reply could be made in either case? Is any gentleman who is disposed to carry the Treaty into effect, prepared to give a satisfactory answer to so just and so interesting a complaint? According to the very principles avowed by the Executive, rather than give no cause of umbrage to Great Britain, we give just cause of war to France. Yet, it has been said, that it would be disgraceful to the nation not to give efficacy to any instrument containing this disgraceful concession. It is not sufficient to say, that the Republic of France will not avail herself of this breach of neutrality, and enter into hostilities against the United States. It is sufficient to show that the United States, by the execution of this Treaty under this construction, will furnish just cause for such a conduct; and, if this be not the just interpretation of the instrument, no disgrace can be greater than to execute a Treaty with a nation at the very moment she is engaged in its infraction.

The 19th article contains some regulations respecting privateers which required no comment.

The 20th article respected the punishment of pirates, which was not material.

The 21st article prohibits American citizens from entering into any foreign service against Great Britain, and defines piracies. He would remark, that there is an existing law in the United States upon this subject, which operates equally towards all the belligerent Powers. This act extends no further than to prohibit American citi-

zens from entering into foreign service within the United States, and applies equally to all foreign Powers. But Great Britain, not contented with this fair and just regulation, has extended this provision, so far as regards herself, beyond the limits or jurisdiction of the United States, and entirely destroys the impartiality and neutrality of the existing legal provision. What is the operation of this article upon the belligerent Powers? It is this: An American citizen entering into the French service, out of the limits or jurisprudence of the United States, against Great Britain, is punishable. An American citizen entering into the British service, under the same circumstances, is not punishable. Besides, it is a prohibition upon American citizens which has never been imposed upon the subject or citizen of any nation, as far as he could recollect. But the practice of entering into foreign service has at all times been resorted to as affording the best military education. When it is recollected that this article is to continue in force for only two years after the termination of the present European war; that there is no probability of the United States being, during that period, engaged in an European war; and that this article is in no respect connected with the professed objects of negotiation; has not the stipulation too much the appearance, as well as the effect, of interfering in the present European quarrel, and evincing a partiality for the interests of Great Britain, in violation of our professions of an impartial neutrality? And can this conduct be justified, either from the nature of the cause in which France is engaged, or from the good offices rendered by that great nation to the United States?

The 22d article stipulates that notice shall be given before acts of reprisal, &c., shall be authorized by either of the contracting parties, which was proper.

The 23d article was that in which he expected to have found some provisions for the protection of American seamen against British impressments; instead of this humane and salutary provision, he found that the officers and crews of those very ships of war, &c., engaged in the unauthorized impressments, are to be hospitably received in the ports of the United States, and a proper respect to be paid to those officers according to their respective ranks. Strange substitute, this, for the protection of American seamen! This article is rendered more aggravating, by the practice of the British in impressing American seamen since the signing of this very Treaty, whilst the table of the House is almost laboring with evidence of this fact; whilst the fact is not denied by any gentleman on this floor—in the very same breath in which a bill has been passed for the protection and relief of this valuable class of citizens, is the House called upon to make provisions for effectuating a Treaty of Amity, &c., with the nation committing these wrongs!—with a nation refusing to respect any evidence of protection which could be afforded to this description of citizens by the Government of the United States, and an alarm and wonder is excited, because the House,

under these circumstances, should deliberate upon making the provision!

The 24th article prohibits the arming of ships, by other foreign nations, in the ports of the United States, and selling their prizes; and restrains the United States from selling them more provisions than would be necessary to carry them to the next port of the nation to which they belong. Although he could see no propriety in these stipulations, particularly at this time, he would pass them over without remark.

The 25th article deserved two remarks: The first was, that it accommodates Great Britain in her scheme of privateering against France, and evidenced the same temper with several other articles towards the belligerent Powers, which has been remarked upon. The other grew out of the general clause of reservation which it contained. The clause he alluded to is in the following words:

"Nothing in this Treaty contained shall, however, be construed or operate contrary to former and existing public Treaties with other sovereigns or States. But the two parties agree that while they continue in amity neither of them will in future make any Treaty that shall be inconsistent with this or the preceding article."

From this reservation it is evident that all the articles which affect the present belligerent Powers are intended as constructive of the Treaty between the United States and France; and the construction is so made as to operate most injuriously to France, and most advantageously to Great Britain. Indeed, this construction seems to have bound so hard upon the French Treaty, in the opinion of both negotiators, that they, probably apprehending that it might in some respect be deemed a positive infraction of that Treaty, thought it necessary to insert this sovereign clause. He said that the whole of the stipulations which affect the present belligerent Powers were the most reprehensible interferences in the European quarrel, for the following reasons: First, they are wholly unnecessary, because they are totally disconnected with the objects of negotiation between the two countries, and with the usual and natural orders of commerce, and of course must be deemed voluntary on the part of the United States. Second, the interest of the United States could not be contemplated, because there is no probability of their being engaged in a naval war in two years after the termination of the present war, at which time these stipulations are to cease; of course, the accommodation was intended for the present war, in which the United States are not engaged, and not for a future war in which they may be engaged. Third, because it is a dishonorable deviation from that impartial neutrality professed by the United States in favor of a nation the least of all others entitled to the accommodations of the United States, and against a nation the most of all others entitled to them. Fourth, it voluntarily hazards the resentment and hostility of a nation, which, if exerted, might produce to the United States the most serious calamities.

The 26th article provides that, in case of war, between the two countries, the merchants and

others of each of the two countries residing in the other shall have time to remove with their effects, &c.; which was in every respect proper.

The 27th article provides for reciprocally giving up certain fugitives from justice; which was not objectionable.

The 28th article respects the time of the duration of the Treaty.

He said, that having examined the Treaty at large, with candor, and with the best judgment he possessed, he found in it so much to condemn, and so little to applaud, and some of the objectionable parts were so formidable in themselves, that it was wonderful to him that the Treaty should have found an advocate, upon its mere merits, in the United States. Viewing the subject as he did, and believing it his duty to exercise his discretion upon it, nothing contained in it could justify him in giving his vote for the necessary provisions to give it efficacy.

Mr. G., after apologizing for the time he had already consumed, proceeded to consider the probable consequences of refusing, or giving efficacy to the Treaty. Gentlemen in favor of making the provision had suggested two consequences resulting from a refusal, of a very serious nature. The one, what is termed by them the hostility of departments of Government, which would necessarily eventuate in a total dissolution of the Government itself. The other, a war with Great Britain. He said, that if either of these consequences would result, he would vote for the necessary provisions, although the vote would be more against his feelings than any vote he had ever before given. Whether either of these consequences would result cannot be positively ascertained but by experiment. The subject, however, like all others, was susceptible of a certain degree of reasoning and calculation.

It should be recollected that the House is now engaged in the exercise of its Constitutional rights. It is called upon to make provision for carrying into effect the British Treaty. Two things naturally present themselves to its consideration: the one, the expediency of the object of expenditure itself, for which the appropriation is required; the second, the ways and means of raising the money. It has been settled by the House, that both are within the Constitutional discretion of the House. The ~~PRESIDENT~~ would deprive the House of the right of judging of the expediency of the expenditure, and limits its discretion to the ways and means of furnishing the supplies. This point being previously settled, he should not enlarge upon it. He proposed to give the history of the rise and progress of the Treaty. He would be correct as to facts, and precise as to dates. Very shortly after Great Britain became a party to the war against France, the ~~PRESIDENT~~ proclaimed the United States to be in a state of impartial neutrality. The Proclamation was dated 22d of April, 1793. An attempt had been made, and was at that time continued, to terminate the differences which subsisted between the United States and Great Britain, growing out of the inexecution of the Treaty of Peace. This attempt proved un-

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successful. On the 16th of June, 1793, Great Britain issued an order, which affected the rights of neutral vessels. This order, and the acts committed under it, served to increase the causes of dispute between the two countries. On the meeting of Congress, in the succeeding Fall, the **PRESIDENT** communicated to them all the negotiations which had taken place between the two countries, intimated that negotiations did not promise a favorable issue, and that it was left with Congress to say what further was to be done. In this critical situation of affairs, Congress took the subject into consideration. Great Britain was, at that time at least, considered as the aggressing nation. The first measure of self-protection proposed was a restriction of the commerce of Great Britain with the United States. This measure was objected to, as being too strong as a commercial measure, and too weak as a political one. As far, however, as a vote was taken upon it, a majority of the House appeared in favor of that proceeding. On the 6th of November, 1793, an additional order was issued, the purport of which was to take and bring to equal adjudication all neutral vessels bound to French ports. This additional evidence of hostility gave rise to three other measures: the one was an embargo for a limited time, which was effected; the second was the suspension of commercial intercourse between the United States and Great Britain; the third, a sequestration, or rather the arrestation, of debts due to British subjects. The proposition for the arrestation of debts was moved the 27th March; the proposition for the suspension of intercourse, 7th April, 1794. On the 4th of April, 1794, the **PRESIDENT** laid before the House a communication from Mr. Pinckney Minister from the United States to Great Britain, containing a conversation between Mr. Pinckney and Lord Grenville, of a very extraordinary nature, which always appeared to him to be the ground-work of the change which shortly afterwards took place in the conduct of the Executive of the United States towards the House of Representatives. The part of the communication alluded to is in the following words:

"Extract of a letter from Mr. Pinckney to the Secretary of State, dated the 9th of January, 1794—

"Lord Grenville answered that the only reason for renewing them was, lest the present instruction, being a revocation of that of the 6th of November, might also be deemed to revoke these articles, which were connected with it. His Lordship then explained the motives which had induced his Government to issue the present instruction. The first, he said, was the sincere desire of the Administration to maintain the best understanding and harmony with the United States. The second was, what he could not mention to me officially, but what he still thought it right I should be apprised of, that no misconception of their motive might be entertained; that he was aware of the delicacy of speaking to a foreign Minister concerning the internal state of his country, neither would he expect an answer from me on the subject; but that their second reason was, by this conduct, to take away every pretext from evil persons among us, who, according to the intelligence he had received, were endeavoring to irritate our people against Great Britain, as well as to oppose the measures

of our own Government; and, in short, to reduce us to the present situation of France, a misfortune which he deprecated, as well for our sakes, as for the common welfare and tranquillity of mankind. He further took occasion to observe, with respect to the conduct of our Government, in maintaining our neutrality, that, although there were some matters with which this Government was not perfectly satisfied, (and to which, for the same reason, they refrained from giving that opposition they thought they would be justified in doing,) yet, from the general tenor of the conduct of our Government, they were convinced it was their desire to maintain a full neutrality, which was an additional motive for their present conduct."

It is to be remarked, that on the 8th January the revocation of the hostile order of the 6th November took place, and on the next day after an apology for the acknowledged indelicacy of interfering in the internal affairs of a foreign Government, Lord Grenville modestly undertakes to intermeddle with the affairs of the United States. It had always been a matter of surprise to him that the American Minister should have listened to such a communication, and still more surprising that it should have met with a favorable reception in the United States. But the fact is, that on the 19th of April, 1794, the Chief Justice was taken from the exercise of his Judicial duties, and nominated Envoy Extraordinary to Great Britain, during the pendency of two of the beforementioned propositions in the House of Representatives. The House of Representatives proceeded to pass the bill for the suspension of commercial intercourse, on the 25th of April, by an uncommonly large majority; and on the 27th of April the bill was negatived by the Senate, upon the casting vote of the **VICE PRESIDENT**. The effect of this vote was a discontinuance of the embargo, and an abandonment of all the other measures proposed for self-protection. In these facts will be seen the commencement of what gentlemen call the hostility of departments, but what he should term the due exercise of the checks provided by the Constitution; and if it is to be traced to this source, the House of Representatives will evidently appear not to be the aggressor. The House viewing their measures defeated by the Constitutional check, acquiesced in the decision without a murmur. Now they are told, if the House should exercise its Constitutional check, a dissolution of the Government would necessarily ensue. This conclusion seemed to him without foundation, and ought not to be brought into calculation in estimating the present question. The Treaty itself was concluded on the 28th October, 1794. It was communicated to this House the 1st of March, 1796, having on the same day been promulgated by Proclamation, declaring it obligatory.

He remarked that the Treaty had originated from an intimation of Lord Grenville, which had always excited his apprehension; it was commenced against the known sense of the House of Representatives, and every step of its progression seemed to have been marked with peculiar coercion. When a British Minister undertakes to declare that the motive for the revocation of the

hostile order was to take away every pretext from evil-disposed persons among us, who, according to the intelligence he had received, were endeavoring to irritate our people against Great Britain, as well as to oppose the measures of our own Government, &c., and to assign the same reason for refraining from giving that opposition to some exceptionable measures of our Government, which he might otherwise have done; and when the United States so far listened to this language as immediately to enter into negotiation upon the subject, his apprehensions of British interference and of British influence were strongly excited, particularly when the British Minister seems to make a common cause between the two Governments against what he is pleased to call evil-disposed persons. He would here incidentally remark, that as far as these "evil-disposed persons" had produced the revocation of the hostile order of November, and a relaxation of British hostility in other respects, they were certainly entitled to applause from the United States, whatever epithets had been bestowed upon them by a British Minister.

He said the contents of the Treaty had very much confirmed his original intentions. Gentlemen had often said, show us the danger of British interference—of British influence. He said, to his mind, the Treaty itself contained the evidence: the Treaty itself corresponded with what he considered the object of the British Minister in giving the invitation to it. He found it in the following particular instances: Before the Treaty, the right of laying a special as well as a general embargo existed in the United States; the right of laying a special embargo upon British vessels is surrendered. Before the Treaty, the right of sequestration existed, and the exercise of it was proposed this right, so far as it respects Great Britain, is forever surrendered. Before the Treaty, the right of discriminating against British goods in favor of those of other nations existed, and the exercise of it was proposed; this right is surrendered. Before the Treaty, the right of suspending commercial intercourse with Great Britain existed, and was proposed to be exercised; the exercise of that right is stipulated against for a limited time, &c. All these are restrictions of the exercise of the rights of national sovereignty, and seemed to him complete evidence of British interference.

These circumstances furnished two reflections. The one was, that the British Cabinet deemed the measures proposed to be more efficacious than they have generally been represented to be in the United States, and hence the extreme caution to stipulate against the future exercise of them. The other was, that party sensations must have had great influence upon the Extraordinary Envoy of the United States, to induce his consent to these great abridgments of the rights of national sovereignty. The Treaty not only contains abridgments of the national rights, but changes the municipal regulations of the United States, and how have these things been effected? By the substitution of a foreign power in the place of the House of Representatives. If the Treaty-making power

be thus extensive, and if it be so absolutely obligatory as to deprive the House of Representatives of the right of judging as to the expediency of making provisions for its complete effectuation, of what use is the House of Representatives as a distinct branch of the Government? Will it not be a mere formal and not an efficient branch of the Government? An entire new system of jurisprudence may thus be introduced by Treaty, and become obligatory on the House of Representatives—obligatory upon the nation.

He said, that whenever the question which necessarily results from the unlimited scope given to the Treaty-making power, shall be presented to the people of the United States, to wit: Shall the House of Representatives become a formal, or remain an efficient branch of the Government? they would pause before they would decide upon its annihilation. He said that their love of liberty, their love of their own interests would check, for a moment, personal affections or antipathies, party sensations, State jealousies would be disarmed, and the people would be found right in their decision.

Even in the midst of the clamor of war and disunion, which has been momentarily excited for a particular object, the people could not be led to such fatal extremities, as the doctrine contended for would necessarily produce. Much less would this be the case after they shall have been relieved from these causeless apprehensions.

If therefore, the House should exercise a Constitutional right of judging of the propriety of the object of expenditure, and a refusal should be the result of their judgment, he did not believe, that it would produce that fatal hostility of departments which would eventuate in a total dissolution of the Government; but would be an exercise of one of the salutary checks provided in the Constitution; which, in his opinion, constitutes its merit, and not its reproach.

Mr. GILES then proceeded to consider, whether a war with Great Britain would be the probable consequence of a refusal to make the necessary provision for carrying the British Treaty into effect; and he observed, that to his mind there did not appear to be the least ground for the clamor which had been excited from this suggestion. He said he believed that Great Britain would make war upon the United States whenever she deemed it her interest to do so; and that the Treaty would impose no restraint upon her, if she thought her interest would justify the conduct. He also believed, that, if there should be no Treaty with Great Britain, she would not go to war with the United States, unless her interest would dictate the measure. In short, he believed, that Great Britain, like all other nations would make her interest the criterion of her conduct in every other question of peace or war.

If this opinion be well formed, the probability of war may be tested by this question. Is it the interest of Great Britain to make war upon the United States in the relative situation of the two countries? Great Britain is now engaged in a war in which the Government hazard everything.

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She is at this moment engaged in an important enterprise against the French West Indies. She is under the necessity of resorting to the United States for sundry supplies for facilitating the enterprise. The United States are the best commercial customer she has in the world. Under these circumstances, what would be her inducement for war? What would be her inducements to avoid it? These questions furnish their own answers. He said that the argument of war was an argument of dependence. It is also an argument which will last forever. If the fear of war is now to influence our conduct against our judgments, will not the same argument apply with double force two years after the expiration of the present war, to induce a continuance of the Treaty upon its present injurious conditions?

Mr. G. said, that as the argument of war was the chief instrument by which the Treaty was pressed upon the people of the United States, he begged the indulgence of the Committee in taking a retrospective view of the subject, and in examining it with some minuteness. Whatever might have been his opinion at the time of receiving the information of the hostile order of the 6th of November, he was now of opinion that at that time Great Britain did meditate war against the United States, although he believed there was no danger of it at present.

He believed, too, that the neutrality proclaimed by the United States, did not, in the smallest degree, influence the conduct or disposition of Great Britain towards the United States in regard to war or peace, but that the true explanation of her disposition will be found in the course of events in Europe. On the first of February, 1793, France declared war against the King of England, and the Stadtholder of Holland, and on the 7th of the same month, against Spain. France was then at war with the Emperor of Germany, and the King of Prussia, &c. A combination of the most of the despots of Europe had previously been formed (it is generally believed on the 21st of July, 1791, at Pilnitz) for the purpose of crushing the revolutionary spirit which had appeared in France. The accession of Great Britain, Spain, Holland, Portugal, and some of the Italian States, to the combination already formed, made it the most formidable which had ever appeared in the history of modern times. The most desperate and bloody war, of course, ensued, and immediately succeeded the declaration of war against Great Britain, a series of successes took place, which threatened the absolute subjugation of France.

On the first of March, the French sustained a considerable loss by the surprise of the vanguard of their army on the river Roer; on the 13th, the rebellion of La Vendee commenced; on the 18th Dumourier was defeated; on the 30th, he abandoned his army; on the 3d of April his army retreated into France; on the 4th, Dumourier himself was outlawed; on the 13th, France made a declaration against all interference with foreign Governments; on the 22d of April, the PRESIDENT issued the Proclamation of Neutrality; on

the 3d of May, the rebellion of Corsica commenced; 29th, the rebellion of the department of Loire; 30th, the rebellion of the city of Lyons; June 2d, thirty-two deputies of the Convention, generally called the Brissotines, were arrested. About the same time, a rebellion commenced in the departments of Bouches de Rhone, Calvados, and Eure; June the 8th, the first order issued by Great Britain for seizure of neutral vessels bound to France with provisions was issued. It is here to be remarked, that the impartial state of neutrality proclaimed by the PRESIDENT OF THE UNITED STATES on the 22d of the preceding April, was probably known to the British cabinet. But whilst flushed with these successes in her crusade against liberty, the neutrality of the United States could not protect them from the invasion of their neutral rights; on the 10th of July, Conde surrendered to the combined armies; on the 27th, Mayence, &c.; on the 28th, Valenciennes; at the end of July, the Spaniards were in possession of Bellegarde, Collioure, St. Elme, &c., and of the whole department of the Eastern Pyrenees, and part of the Lower Pyrenees; the Prussians and Austrians were possessed of the lines of Weisemburg, Fort Vauban, &c., and had blockaded Landau. The Piedmontese and Hanoverians had made successful inroads into other parts of France, the Royalists of La Vendee were in possession of four departments.

The royalists of the south were in possession of Lyons, Marseilles, Toulon, and the departments of the Vaucluse and Rhone. On the 28th August, all Frenchmen were put into requisition; on the 28th, Toulon surrendered to Lord Hood by the Royalists; on the 9th of September, the Duke of York was defeated; on the 11th, Lyons was subdued; on the 30th of October, the Brissotines were executed. This was nearly the state of the war upon the European Continent at the time of issuing the hostile order of the 6th of November. In this chronological statement of facts may be found the hostile disposition of Great Britain widened by that order against the United States. France, convulsed with intestine divisions, which extended to the very heart of the Convention, laboring under the most formidable external pressure, was supposed to be an easy prey to this terrible combination of despots. The combination having in object, as he believed, the total destruction of liberty. Great Britain, possessed of the most triumphant and formidable fleet, and guided almost implicitly the movements of this great combination, already anticipated the destruction of liberty in France, and began to turn her attention towards the same object in the United States. Hence the order of the 6th of November; hence the truce between Portugal and Algiers; hence the talk between Lord Dorchester and the Indians. These, he admitted, were all acts of hostility, and evidently produced by the state of things before described. But what events followed these acts of hostility?

A complete reverse of fortune immediately succeeded. The Duke of York had been already defeated. On the 17th of December, Toulon was

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retaken by the French; on the 22d, the Austrian fortified camp near Werth was attacked and carried; on the 24th and 25th, the army under the command of the Duke of Brunswick was defeated at Kelifburg, and the Austrian army at Geishurg; on the 26th, the lines of Weisemburg were forced, and the Austrian army defeated. On the 8th of January, the hostile order for seizing neutral vessels was revoked, and on the 9th, Lord Grenville informed the American Minister that the revocation of the order was to take away all pretext from evil disposed persons amongst us for indulging their resentment against Great Britain. But, however strongly this motive may have operated on the British cabinet, it certainly was very strongly enforced by the state of things upon the European Continent, which was not only changed, but completely reversed between the 6th of November, 1798, and the 8th of January, 1794. It is remarkable, that notwithstanding the several changes in the conduct of Great Britain towards the United States, they have been uniform in their impartial neutrality towards Great Britain; of course, the uniform disposition of the United States towards Great Britain could not have produced the fluctuating disposition of Great Britain towards the United States. Great Britain, in all probability, had supposed, that, in the intoxication of the combined Powers from their early successes, her influence might unite them in a war against the United States, and perhaps, in the height of her presumption, she might even have indulged the impious hope of regaining her dominion over them; but this sudden reverse of fortune checked her ambitious enterprise; probably anticipating a speedy dissolution of the combination, and having abandoned all prospects of engaging them in her iniquitous project, being unwilling to add a new and formidable enemy to the one already encountered, and even fearing the effects of her previous hostilities, a sudden revolution is produced in her conduct towards the United States. It is then she is desirous of taking away all pretext from "evil disposed persons," to indulge their resentment against her. It is then the order of revocation is seen. If, then, Great Britain was unwilling to encounter a new enemy in her then situation, will any change of circumstances justify, at this time, the supposition of a change of disposition in Great Britain respecting war with the United States. He believed not. Peace seems to be more important to Great Britain at this moment than at any time previously during the whole period of the war. The nation is desirous of peace, and distressed for provisions. The combination, which indulged her presumptuous hopes, crumbled into dust.

Prussia at peace with France, and almost at war with Great Britain; Spain at peace with France, and hardly at peace with Great Britain; Holland at peace, and in alliance with France, and at war with Great Britain; Austria herself almost exhausted, and desirous of peace; and a continuation of French exertions and successes, which has excited the admiration and astonishment of the world. Are these the circumstances

which would justify apprehensions of war from Great Britain? And are the United States to tremble at the sound of war from a nation thus circumstanced? He trusted not. And for what cause is this war to be produced? Because the House of Representatives may deem it inexpedient to become the instrument of giving efficacy to a bad bargain?

He verily believed that the alarm of war was not serious. He verily believed it was resorted to as an artificial instrument to effect a favorite object. For his part, he believed the hazard so small as not to constitute an item in estimating the present question.

Mr. G. said, he believed that Great Britain considered the United States as a more important commercial connexion (particularly as it respects her views in the West Indies) than some gentlemen seem to admit; and he believed, also, that she viewed the United States more formidable as an enemy. He inferred these opinions from the avidity with which this Treaty seems to have been received in that country, and particularly from an expression in the speech of the King at the late meeting of Parliament. He said that two reflections were strongly impressed upon his mind from that speech. The one was, that the Treaty was deemed a very advantageous one to Great Britain; the other was, that Great Britain has no appetite for war against the United States in her present situation.

Hence, he said, that he could not believe that there was the least possible foundation for the suggestion of the fatal hostility of departments of Government, or war with Great Britain, as amongst the consequences resulting from a refusal to make the necessary provisions for giving efficacy to the Treaty.

As the present Treaty is incomplete, and as further negotiations are stipulated in the Treaty itself, and in the event of a decision either way, are expected, he thought the most important consequences of the vote would be this? If the House should refuse to make provisions for carrying the Treaty into effect, the new negotiations would commence without the concessions contained in the present Treaty. If the provisions should be made, the further negotiations will proceed under the weight of the concessions already made, and very little amelioration of the present conditions can be expected, as the United States will have very little left to induce the amelioration. And if no final adjustment of differences should ensue, the United States will at least continue to possess all the rights attached to national sovereignty.

Much has been said, and much unnecessarily said, about intemperance and heats. He said he would appeal to the recollection of the Committee, whether there ever was a more harmonious session than the present, until this Treaty was introduced into the House; and then whether its opponents had not discovered at least as much coolness and deliberation as its advocates.

He said that the Treaty itself was the torch of discord which had been unfortunately thrown

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into the United States, and it was extraordinary to observe those who have been most instrumental in introducing it, impute heat to others, for a firm and decisive opposition to it. It is too much to suppose that the absolute sacrifice of opinion is an obligation due to the embarrassments into which this Treaty has thrown the United States.

Upon the whole, he conscientiously believed the Treaty to be a bad one. He believed it contained the most complete evidence of British interference in our internal affairs, and had laid the foundation for the further extension of British influence. It has restricted the exercise of some of the important rights of national sovereignty. It has voluntarily hazarded the neutrality of the United States in the present European war, and destroyed all pretensions to its character of impartiality. It has not afforded protection to our neutral rights, which was amongst its great objects; and in the adjustment of the differences resulting from the inexecution of the Treaty of Peace, it is unequal and unjust. All these important circumstances considered, and when it is also considered that the British persevere in impressing our seamen and seizing our vessels, in violation of the clearest rights of neutral nations, even since the signing of the Treaty, he could not consent to be the instrument of giving it efficacy. He believed that it was one of those extraordinary cases which justified strong and extraordinary resistance.

When Mr. GILES had concluded his speech,

Mr. GOODRUE addressed the Chair as follows: Mr. Chairman: Much noise has been made, and every art has been practised to prejudice the people against the Treaty now under consideration. I mean to look at it and see if it be the horrid thing it is represented to be, and particularly to examine the commercial part, to know whether we have made a good bargain or not. I will take notice of some objections that have been made, and then touch on the great evils that may justly be apprehended if we refuse to carry it into effect. And here let me observe, the subject is the most momentous that ever came before this House, and I mean to put no false colors on it, or to paint any evils that will follow a rejection, beyond what, in such an event, I most conscientiously believe will be realized. I will now state what new sources of commerce are opened to us by the Treaty that we had not before, and then see what we have given for them. 1st. We have got by the Treaty a perfectly free trade across the land, and by means of the lakes with Canada, that we had not before, and on the same terms with British subjects, which I estimate as a great advantage to this country; for it is evident that we can introduce into Canada—up the North river and across the Lakes—almost any kind of goods, at less expense and on better terms than the British can up the river St. Lawrence, which is very lengthy, and frozen up six or seven months in the year. Having this advantage, can it be doubted that we have not industry and enterprise to improve it? No, sir, the enterprise of our people is such, that we shall un-

questionably carry on almost all the trade of Upper Canada, and that great Western country which will be opened to us, by which means we shall have at least an equal share in their fur trade also with them, which we have so long wanted. But it is said, the portages or carrying places being common to both, they will run away with the greater part of the trade. Why so? I am not afraid but the citizens of the United States, if they are put on an equal footing with others, will make their way equal with any people on earth. But it is said, by way of lessening the advantages of this trade, that goods imported into Canada pay little or no duty, and the goods that we import are by our laws subject to high duty, and that no drawback of the duty can be established upon their being sent into Canada, and therefore, we cannot supply them on equal terms. To this, I reply, that I do not know what duty they impose on goods when imported into Canada, but I believe it is considerable; and I do not believe but it is possible to devise a plan for a drawback of the duty which may have been paid on our goods when they are sent into Canada, and that at any rate the ease by which we can send them there up the North river, compared with their being introduced by the St. Lawrence, will more than compensate for any difference of duty, in case a drawback should not be admitted.

2. We have got established by the Treaty a right to trade with all their settlements in India on the same terms with their own subjects, and thus we have laid open to us a free trade with those vast possessions of theirs in that quarter of the globe, which, it is said, contains twenty or thirty millions of inhabitants. Let me inform the Committee, that our trade to India is already very great and profitable. In the town of Salem only, in which I live, we have thirty sail of Indian men, and doubtless, in the United States, the whole amount must be nearly an hundred; and the number will increase in such a manner, as by our superior enterprise, industry, and economy, that we shall not only supply our own wants, but those of the West Indies and Europe, in a great measure, with India articles; for though, by the Treaty which gives us this free trade, we are not permitted to carry India goods from their settlements directly to Europe, yet there is no doubt, in my mind, but we can export from hence thither cheaper than they can get them any other way, for this obvious reason, because their trade to India is carried on by their companies, in which despatch and economy is by no means so much attended to, as it is when managed by an individual. But it is said we had this trade before the Treaty. I answer, it is true we had, but it was only by way of indulgence, subject to be deprived of it whenever they thought fit; and let me ask, is it not vastly better to have it secured as a right, than to have it rest on the precarious tenure of indulgence? Here, Mr. Chairman, let me remark, that they have granted to us this free trade to India, which their own subjects (except the India Company) are entirely shut out from.

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What must be the feelings of British subjects when they see their Government has given to strangers a perfect freedom of trade to their India settlements, and shut them out from it altogether? And what must be their astonishment when they hear that some people among us think that Great Britain has conferred no favor upon us by doing it? Hear what the famous Mr. Grattan, the great Irish patriot, said in the Irish Parliament, on the subject:

"This very America, which the British Minister insulted and then crouched to, had, by the late Treaty of Commerce, been admitted to all the British settlements in the East and West Indies, to the latter of which Ireland was only conditionally admitted, and from the former unconditionally excluded; yet Ireland was a loyal, attached nation, and America an alien."

These are the commercial acquisitions we have obtained by the Treaty; and, let me ask, what have we given to Britain in return for them? I answer, nothing more than they have all along enjoyed in our ports, by the laws of the United States, in common with other foreign nations. No new commercial advantages have we given them; they can come here now on no better terms than before. But, it is said, we have tied our hands by the Treaty, that we will not lay any greater duties on their commerce than we do on all other foreign nations. Pray, let me ask, if Great Britain have not equally tied their hands? And can we be so unreasonable as to suppose that they would ever consent to a Treaty that had not such terms of reciprocity?

It is again said, by way of objection, that they have reserved to themselves the right of counter-vailing the difference of duty, which we by our laws, have established between our own citizens and foreigners, and that she will now exercise that right by imposing equal duties on our vessels in the ports of Great Britain. Let me answer this objection to the Treaty, by asking if she had not this same right, and even an unlimited one, of imposing what duties she saw proper on our vessels in her ports before the Treaty? She did not see fit to exercise it then, neither is it probable she will now. And, lest it should be said she will now do it, because we are restrained by the Treaty from increasing the duty on her ships beyond what it now is, and, therefore, she has not the same fear operating to prevent it that she had before, let me remark, that if she was restrained by any such considerations, this same restraint would be in force again in two years after the present war ceased, being the period of the existence of those articles of the Treaty—a time so short as to render it highly probable she will not think it worth while to make the experiment.

A great cry has been made against the commercial part of the Treaty, and I must confess I never could see on what ground, for it is a certain fact we have given Great Britain no new privileges in our Atlantic ports by the Treaty, and no other in their intercourse by the way of Canada than they have given us; and, therefore, it may fairly be said that, by the Treaty, we have given them no new commercial privileges they were

not before enjoying in our ports; and they, on their part, have given us considerable; and consequently, on our side, the bargain must be a good one.

Let me ask, why there is forever so much complaint against Great Britain because she does not open all her colonies freely to us? Does Portugal open the Brazils? No; she shuts out all foreigners. Did Holland, before the present war, open to us all her rich possessions in the East Indies? No. Does Spain open her rich islands in the East and West Indies, and her immense possessions in South America? No. Does she, in the Treaty lately made, open even Florida, as Great Britain has Canada? No. Did France, before this war, give us free trade to her colonies? No. And do not all those nations, as well as every other, come into our ports on the same terms with the British? Why, then, make this rant about the British? Let them fare as well in our ports as other foreigners, inasmuch as they certainly grant as much to us as most others do, is all I contend for. I do not wish they should fare better.

Let me observe, Mr. Chairman, that ever since this Government has been established, and long before, it has been the uniform complaint against Great Britain that she would not enter into a Commercial Treaty with us; and now many of those very people who made the greatest complaint, find great fault with our negotiator for having meddled with the subject, and say they wanted no Commercial Treaty with them. Every one must know this to be true; and it is past my comprehension to reconcile such contradictory sentiments.

The 12th article, relative to the West India trade, which was rejected by the Senate, and forms no part of the Treaty, is conjured up as a scare-crow, and has been made use of by the opposers, as though it formed a part of it. They say it is only suspended. Why are they not candid, and say the subject is suspended, as is truly the case, and is now the subject of negotiation by Mr. Pinckney with the Court of London?

It has been made an objection to the Treaty, that there is no stipulation that free bottoms shall make free goods. I answer, it could not be expected that Great Britain, the most powerful nation of the ocean, would ever accede to such a principle; for it is one that was brought into view only by the weaker Powers, to form a combination against the stronger; and, if properly examined, must be found a visionary though a pleasing idea that can never be practised upon so long as war continues among the nations of the earth. Beside, if such a thing was practicable, I am not sure that we should ever be gainers by entering into such a stipulation; for it is highly probable that, in a war with Great Britain, she would have more of her property shielded by neutral bottoms than we should. We have such a stipulation with France, and we found she did not adhere to it, neither could she, without giving her enemies a great advantage over her.

Another objection is made, that provisions are

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included among the contraband articles; but the fact is quite otherwise, for provisions, even in cases where, by the Law of Nations, they would be deemed so, and subject to forfeiture, are exempted and are to be paid for. One gentleman said, that British ships could come from India on the same terms with ours. If he had examined the Treaty candidly and our revenue laws, before he had undertaken an opposition to it, he would never have had occasion to make this assertion and many others respecting that instrument.

One idea which has pretty much prevailed in the United States, and which has always been brought into view in opposition to Great Britain, to the omission of all other nations who practice upon the same principle, is, that her dominions every where ought to be as open to our ships as our ports are to hers. I wish most cordially that every nation that has colonies would give us this free entrance into them. Our commerce would then have a wide and beneficial range indeed. But it is not to be expected that nations who have been and are at an enormous expense in settling and protecting colonies, will ever let other nations come in and partake equally with them the benefits resulting from such expense and labor; and I much doubt if we had colonies if we should furnish the world with an instance of such unexamined generosity.

A great objection is made to the provision in the Treaty which requires us to pay our debts due to British subjects, which they have lost in consequence of the Courts of Law in some of the States having been shut against their recovery, contrary to the 4th article of the Treaty of Peace, which expressly provides that no such impediments should have existed. The objection does not seem to go to say that they were not bound to pay such debts, but they now endeavor to frighten us with the great amount of them. I will observe, that if it be just that we should pay them, then no matter how great they are. But let us examine into it, and we shall see that, instead of \$15,000,000, which some have held up, it probably will not amount to one-thirtieth of that sum. And, in order to form an idea of the utmost extent of the sum which we may be liable to pay for British debts by the 6th article of the Treaty, which makes us answerable only for such as were contracted before the late war, and have been lost by insolvencies taking place during the continuance of lawful impediments that have existed in some of the States to their recovery, contrary to the 4th article of the Treaty of Peace with Great Britain, let us have recourse to Mr. JEFFERSON's letter to the British Minister on this subject. He says:

"Some notice is to be taken as to the great deficiencies in collection urged on behalf of the British merchants: the course of our commerce with Great Britain was ever for the merchant there to give his correspondent here a year's credit, so that we were regularly indebted from a year to a year and a half's amount of our exports. It is the opinion of judicious merchants that it never exceeded the latter term, and that it did not exceed the former at the end of the war. Let the

holders, then, of this debt be classed into, 1st. Those who were insolvent at that time. 2d. Those solvent then, who became insolvent during the operations of the war—a numerous class. 3d. Those solvent at the close of the war, but insolvent now. 4th. Those solvent at the close of the war, who have since paid or settled satisfactorily with their creditors—a numerous class also. 5th. Those solvent then and now, who have neither paid nor made satisfactory arrangements with their creditors."

The Treaty under our consideration has reference to the third class only: and let us conjecture from this statement of his what the whole amount of such debts may be for which we are now liable. He says, the whole amount of debt at the commencement of the war may be considered as not exceeding the annual exports. I take it he applies this particularly to the State of Virginia, because in no other States have I heard any such debts exist for which we shall be accountable, or, if any, it is but of small amount any where else. The value of the exports of Virginia, in 1774, is not known, but it was \$3,500,000 in 1792. Presuming their exports are upon the increase, as is the case with all the other States, I will set their exports, in 1774, at \$2,500,000, which, by Mr. JEFFERSON's idea, must be equal to what was owed by Virginia at the commencement of the war; and, from his classing the debtors in the manner he has, with what he says of each, I think it fairly deducible that that part of the \$2,500,000 Virginia owed, but a small portion of it will fall under the description of the third class, for which we can be accountable, and cannot, by the evidence resulting from this statement, be estimated at more than one fifth of what was owed, or more than \$500,000.

The impressment of our seamen by the British is made use of as an objection to our carrying the Treaty into effect. It is, to be sure, a mortifying circumstance, and must excite our utmost detestation of such conduct. But let not our passions get the better of our judgment. We have no kind of evidence that such conduct is countenanced by their Admiralty, but the evidence we have is of a contrary nature, for, upon our Minister's remonstrating to the British Ministry on this point, they assured him that orders had been issued, and should be repeated to the commanders of their ships, not to commit such violence on our rights, at the same time observing, that, speaking the same language as we do, it was difficult in all cases to distinguish their seamen from ours. In this situation, let us believe, that a firm and spirited remonstrance will be made by our Executive against such outrages; and let us hope that it may have the desired effect. But, let me ask, if the Treaty should not be carried into effect, will that relieve that deserving class of our citizens? Will it not have probably a contrary effect, and be the means of increasing the evil ten-fold more than it exists at present.

One gentleman, who is violently opposed to the Treaty, has said that the Commissioners for Spoliations had no principle laid down by which they are to be governed, and, therefore, presumes

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they might act without principle. But they have the best principles laid down for their government. The words are: "And shall decide the claims in question according to the merits of the several cases, and to justice, equity, and the Law of Nations." But, it is worthy of remark, as it will serve to show the prejudices that prevail in the opposition to the Treaty, that the same gentleman voted for the Spanish Treaty without the slightest remark, although the same words are made use of in that on the same subject.

A gentleman, to whom I have before alluded, has said the reason why the merchants were in favor of the Treaty was, because it was for their interest. Let me ask, what better reason could be given? I wish we were all governed by such a principle; and the inquiry was, What is for the interest of our country? And, having found it, we might pursue it.

But, Mr. Chairman, let me ask some serious questions. How do we expect to get at the possession of the Western posts if we reject this Treaty? Do we mean to go to war for them; or do we mean the British shall retain them, and be quiet under it, and so have another Indian war in consequence of it? How and in what way are our merchants to be indemnified to the amount of \$5,000,000 for the spoiliations committed on their commerce if the Treaty is rejected?

Do this House ever mean to pay them?

Has there ever been any disposition manifested that can afford them the least ray of hope of ever receiving one farthing from Congress by way of such indemnification? Is it expected they will pocket these immense losses, and sit down quietly under it?

Does this House intend to be answerable for the capture of the immense property now afloat that may be the consequence of the rejection of the Treaty? Do they mean to be responsible for a war which may, and probably will be, the consequence of the rejection of the Treaty?

What resources shall we have to carry on a war, when our impost must cease, but a land tax? What do we expect from a war?

Do we expect to get a better peace at the close of it than we now have?

These and many other queries might, with propriety, Mr. Chairman, be put to the Committee. They are grave questions, and I most ardently hope they will receive the consideration they merit, because I am most indubitably convinced that war with all its horrors, together with a dissolution of the Union, may, and I believe will, be involved in the decision of the question now before us, if the decision should ultimately be against carrying the Treaty into effect.

When Mr. GOODRUE had finished his remarks the Committee rose, and had leave to sit again.

Mr. W. SMITH proposed that the Galleries should be cleared, that the select committee to whom certain papers relative to the Treaty with Algiers was referred, might make their report. They were cleared accordingly.

The doors being again opened, the House adjourned.

TUESDAY, April 19.

SPOILIATIONS ON COMMERCE.

Mr. LIVINGSTON wished to submit a resolution to the consideration of the House, relative to the situation of certain merchants of the United States, in consequence of spoiliations committed upon their property by foreign Powers. It was, he believed, an established principle of a free Government, that protection was equally due to the person and property of every citizen, and that when the property of a citizen was, notwithstanding the protection which was due to it, injured by a foreign Power, relief ought to be granted to him. In applying these principles to the merchants of the United States, it was an indisputable fact that they had suffered very materially by the spoiliations committed, chiefly by the British, upon their property at sea, and that hitherto they had received no redress. These merchants felt themselves at this moment peculiarly situated with respect to the Treaty lately concluded with Great Britain, now under discussion in that House, which afforded them some hope of relief; but, from the opposition which was shown thereto, it appeared doubtful whether it would eventually be carried into effect. As, however, these citizens were, in his opinion, entitled to relief from Government, he should wish to bring the subject before the House by means of the following resolutions:

"*Resolved*, That provision ought to be made by law for the purpose of ascertaining the amount of losses which may have been sustained by citizens of America, in the pursuit of their lawful commerce, either by any infraction of the Law of Nations, on the part of any foreign Power, or by the unauthorized acts of any of the subjects of such foreign Power, where, from whatever cause, relief cannot be had against such subjects in the ordinary course of justice.

"*Resolved*, That — dollars be appropriated, to be advanced to such citizens, and divided amongst them in proportion to their respective losses."

OHIO LANDS.

Mr. HENDERSON said, as they had very frequently means proposed to them of taking money from the Treasury, he should wish to propose a measure which would be likely to bring some money into it. He believed there was a quantity of land, equal to 100,000 acres, which might be sold for public use, and would afford seasonable assistance to their revenue. For this purpose he proposed a resolution to the following effect:

"*Resolved*, That a committee be appointed to inquire into and make a statement of the number of lots of land, together with the number of acres they contain, which are reserved for public use out of the sale of lands of the Ohio Company and others, that they consider thereupon, and that they make a report of the same by bill or otherwise."

EXECUTION OF BRITISH TREATY.

The House then resolved itself into a Committee of the Whole on the state of the Union, on the motion for making provision for carrying into effect the Treaty with Great Britain; when

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Mr. HEATH rose and addressed the Chair as follows:

Mr. Chairman: In the discussion of this so momentous and important a subject, and so big at the same time with the dearest interests of our common country, I shall not attempt any critical analysis upon the good and bad parts of the instrument, as the gentlemen preceding me in this debate have already done, but only confine myself to a few remarks, to justify my conduct to God and my country for the vote I shall give in the ultimate decision of the question. Mr. Chairman, permit me here to remark, that during the recess of the last Congress, when the American mind was roused with so much irritation and sensibility through all parts of the Union against this paper, after its first appearance in public print, I was one of those who kept aloof from the storm, suspended my opinion, became of no party, considering myself hereafter bound to discharge the important duties of an American Representative on the occasion. And now, since the commencement of the present session, though two-thirds of my time overwhelmed with disease, and daily languishing in the bed of pain, even under such a dreadful personal calamity, my reflections were not turned aside from the awfulness of the subject before us; which before and during this discussion, I confess, as often as I have revolved in my mind, with a review of the situation of my country, I have frequently paused, not knowing the best expedient to pursue to avoid impending evils. I have at length chosen my ground—I am now fixed and determined in my course. I shall negative the proposition on your table, and will now succinctly offer my reasons to the Committee, humbly requesting their patience and attention for a few moments. And, for the sake of method and perspicuity, I shall consider my objections in two points of view—objections intrinsic and extrinsic. Intrinsic as they arise out of the Treaty itself; extrinsic causes independent and self-existing without the Treaty, manifestly apparent and glaringly conspicuous from the conduct of the British both previous and subsequent to the formation of the instrument. Under the first head, causes arising from the obnoxious features of the Treaty itself, I shall reduce to the four following points:

1st. It is unequal, because it is only a partial adjustment of differences and grievances existing before the formation of this instrument.

2d. It is unequal, because there is only a plausible appearance of reciprocity of advantages gained by the instrument, without the reality. We have given the *quid*, but do not receive the *quo*.

3d. It is impolitic and improper, because it is an unjust interference with our body politic, in clogging and fettering our Legislative functions.

4th. It is an illegitimate child, and not the only begotten offspring of the United States.

On the first objection regarding the inequality of adjustments, it is to be remarked, that in the non-execution of the old Treaty of 1783, reasons were offered by both nations in justification. Great Britain pleaded on her part the non-payment of British debts to the British creditors pre-

vious to the war. America rebuts her plea, denying a violation on her part, but if any act of hers could be construed into a violation, she was justified by a previous violation on the part of Britain in carrying away the slaves and other property belonging to American citizens, secured by the 7th article of the said Treaty. Is there any provision in this instrument for so flagrant a violation of the Treaty; such an hostility and outrage against justice and morality? No, no such provision was ever thought of, but blotted out of the book forever by the *worthy* Minister of negotiation. He was born in a Northern clime, therefore Southern grievances were subjects of too inferior magnitude to occupy the depths of his profound imagination. The surrender of the posts was enough for everything. I have no doubt my Northern brethren contemplate mines of wealth from the fur trade, and this by anticipation from their surrender. I wish from my soul their ideas, so sanguine, may be realized, but I confess my mind has its fears.

Mr. Chairman, I have strange forebodings on this occasion. By the second and third articles of the instrument before you, in the surrender of the posts, British subjects have a right to reside with us; Indians have a right to pass and repass from post to post from our district to their portages and ferriages free, all in the vicinity within gun shot. Will not their traders continue their old acquaintanceship with them in spite of us? Are not their capitals for trade larger than ours? Where, then, are the real profits anticipated? All visionary, like the beggar's dream, grasping mountains of gold, and when the morning sun shakes off his slumber, it dissipates the delusion. But time will make more converts than reason. Further, before I quit this subject of inequality, I wish to remark, by way of reply to my much respected friend from Connecticut, who was up a few days ago, in language nearly similar, and the same sort of ingenuity of a celebrated champion, who has dedicated much labor in favor of this instrument under the signature of *Camillus*, that Great Britain had never violated the seventh article of the Treaty of Peace in not restoring the slaves and other property; that they were taken in war, and their freedom offered to them by the British commanders, and were not taken after a cessation of hostilities; and, therefore, were not proper objects of surrender. Oh, the deceit, the sophistry of this construction! I shall just answer it by reading from the Journals of the old Congress what the real *Camillus*, or, in other words, the learned Mr. HAMILTON, thought of that article at that time. He read the Journals of 1783, where Mr. HAMILTON moved in Congress for Commissioners to be sent to New York to the British commander to request an explanation respecting an infraction of that article. So was Mr. HAMILTON's opinion at that time, so was the prevalent opinion of all America at that time. My second point, the want of reciprocity in the instrument, has been so well explained by my worthy colleague from Virginia, that I confess I am curtailed in my sentiments a little here. But, suffice it to say, that the local circumstances of

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this country will make the suspension of the law of alienage more advantageous by tenfold than could be reaped by American citizens over the other side of the water. Witness the great disproportion between American citizens holding lands in Britain and British subjects in this country. I wish it may not revive old proprietary rights, with its long train of tenure, fealty, and vassalage. Perhaps my fears may ensue from residing in that of Virginia, where this tenure once prevailed. I now come to the third objection, and the most important. Other objections, though they have their weight in my mind, yet perhaps they might yield their force, were it not for this the more insurmountable. This might be said with propriety to be the foundation of the call for papers from the Executive respecting the Treaty.

By the various articles embracing this subject, the House of Representatives of the United States, in the Treaty-making power, have lived to see the day, which I am sure no human sagacity could have ever divined, that they may be considered as a perfect collective cypheral body of men in legislation, reduced to a mere Committee of Ways and Means, subservient to Executive policy, just called together, for voting the necessary supplies of money for foreign negotiation or for the current annual expenses of Government. America is here totally disarmed of every alternative to resort to in the hour of distress—to prevent the horrors of war, no sequestration, no embargo, no commercial restriction, can be the subject of future legislation against the tender and humane people of Britain.

Is this right, is this just, that all our rights should be thus bartered away under a Treaty-making power? If it is so, and it must be borne, dreadful, dreadful, indeed, must be the calamity of future generations of America, under the operation of this Government; for any one of them, or all together, I would resort to an awful national crisis, sooner than sound the trumpet of war, and let the banners of blood loose upon the earth.

4thly and lastly. I hate very much to enter into a minute explanation of this objection, because I love and venerate harmony in Government. I do not like to be telling the American people of party and factions prevailing in our public councils. However, suffice it to say, that an attentive review of the session of 1794, the period when all America seemed to be roused with a just sense of indignation at British insolence and oppression, this able American negotiator received his birth, and winged his flight over the Atlantic to the British throne, to beg for mercy and reparation for our accumulated injuries. Humility is a golden virtue, but seldom succeeds when addressed to a hardened Pharaoh. However, a majority of twenty odd of the House of Representatives were for pursuing a different policy, which I then thought, and still think, would have been the only pacific and healing balm for our wounds and distempers. Therefore, this proves that the people, by their Representatives, thought one expedient best, and the Executive another; and, from my heart and con-

science, I wish a union of sentiment had prevailed.

Upon the whole, Mr. Chairman, were I capable of pencilling a true picture of the instrument before you, I conceive it is a giving to Great Britain so complete a control over our commerce, that it reminds me of the old true principle long conceived by the minority of the British Parliament, under our former Colonial system, a mere amelioration of our unfortunate state of taxation without representation, by holding out a distinction of external and internal taxation. The first, the regulation of our commerce, which Britain would ever retain; but that we might be taxed by our own Provisional Assemblies for internal purposes of Government, proved by a passage read from the life of Chatham.

But, Mr. Chairman, for all these objections, policy and expediency, founded upon the truest basis of all political happiness, might have taught me to have yielded their force, and give the affirmative to the proposition. So I would, but where is the force of a Treaty? Is Great Britain bound by it, or was she ever bound by any Treaty since the history of her existence as a nation, no longer than it was her interest to break it? What has been her conduct towards America previous to the formation of this Treaty, and subsequent thereto, even to the present time? Is she not daily, with a high hand and outstretched arm, seizing our provision ships bound to foreign ports, and, what is still worse, by unwarrantable impressments, dragging our seamen, with even protections in their pockets, on board their ships of war, a life worse than captivity itself to freemen? They lord it over the ocean, take from us our property and seamen, and yet we cannot stay their hands, and say unto them, why dost thou?

These are the reasons, Mr. Chairman, I have for voting against the proposition; and however light and airy they may be viewed by some, I confess they greatly preponderate in my mind. Though my body is feeble, and I have stood longer on my legs than I could have believed, I must beg the patience of the Committee a little longer, that I may address a few words to my Northern brethren within these walls.

I lament much that a worthy friend of mine from Massachusetts, [Mr. GOODHUE], on the floor a few days ago, should conclude his speech in favor of the Treaty by giving it as his opinion, in the most solemn manner, that if the Treaty is not carried into effect by this House, the consequence would be that two of the greatest evils that ever befel a nation must follow—war and a disunion of the Government. Good God! I am lost in astonishment! Is there a man within these walls so dead to all the dearest interests of his country, an alien to the feelings of humanity, lost to all sense of his responsibility, as to plunge his country into a wanton and unnecessary war? Such an one, if any there be amongst us, I deem a traitor, and unworthy the name of freeman. I think my friend must have caught this idea from an old hackneyed tune, played frequently in this city a few years past, and now lately revived by a cer-

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tain mercantile influence, who have industriously transported their ballads all over the Continent to sound the alarm of war. These delightful geni of the present day would feign make us believe that both the natural and political world will be convulsed if this Treaty is not carried into effect. These stories will do to frighten children of the cradle, but not the true, independent American, who knows and will protect the favored rights of his country.

Mr. Chairman, I fear I trespass on your patience, but I am coming to a close; and now let me beseech my worthy brethren, from all parts of the Union, that, in the decision of this question, whatever side the majority may prevail, let us, as legislators, as virtuous, free-born sons of America, acquiesce like true Republicans, and afterwards unite in one common cause with recurrence to that great and fundamental principle, which should be written in letters of gold, and from whence, after a long and perilous struggle, grew up this stupendous Republic, "United we stand—divided we fall."

I have now only to add my most fervent prayer to the Divine Author of all Good, that, if we are wrong, to pray the protection of Heaven to put us right; and, if we are right, to crown our endeavors with success, in giving harmony and stability to our public councils, and happiness to the American people.

Mr. WILLIAMS said, that various opinions had been delivered upon the various subjects involved in the Treaty. He should take the liberty of stating to the Committee his sentiments on the occasion, and then inquire into the policy or impolicy of carrying the Treaty into effect. But, in the first place, he conceived it to be necessary to take a view of its origin, the division, and party dissensions which then prevailed—the critical posture of our affairs, the depredations committed on our commerce, and the probability of a war.

Let us, said Mr. W., take a view of the debates of that House in the year 1793 and 1794, and he believed it would be discovered that if the business of negotiation had not taken place, this country must have been involved in a war. It would be remembered, that a gentleman from Virginia, [Mr. MADISON,] on the 3d of January, 1794, laid on the table of this House seven resolutions. The object of which was to compel Britain to come to some terms of accommodation, and to prevent further depredations on our commerce.

After a discussion of several weeks, the first resolution, which was for imposing an additional duty on the importation of a great variety of manufactures from nations having no Commercial Treaty with the United States was agreed to by a small majority. Britain had, said he, ever since the end of the war, declined entering into any Commercial Treaty with us. In the mean time, the danger from British depredations augmented with such rapidity that those resolutions became insufficient, by reason of the seizure of an immense number of our vessels, in consequence of instructions that had been given by the British Ministry on the 6th of November, 1793; and other

resolutions were then moved for the sequestration of British property, but the result was an embargo and negotiation.

Was it not then urged by members of that House that the British nation refused to negotiate with them? It was, indeed, supposed it would be attended with considerable difficulties, and that a considerable class of citizens, let the consequences be what they might, would not be satisfied with the result. However, it was thought best to adopt the measure.

But, said Mr. W., let us waive this subject, and inquire if negotiation had failed, whether war would not have been the consequence? Can it be supposed that, after the British had committed certain spoiliations on our commerce; after their Order of the 6th of November, 1793; after the declaration of Lord Dorchester to the Indians, that war would not have followed? The national pride of Great Britain could not have yielded to compulsion without self-degradation; and it would be remembered, too, that from the relation in which the two countries have stood to each other, it must have cost more to the pride of Britain to have received the law from us than from any other Power. And if war had been the consequence, how werg we to have recovered the amount of the spoiliations committed on the property of our merchants? How were we to act? Were we to demand satisfaction? We have no protection to our commerce, and therefore the British can at any time arrest it without additional expense to themselves, having near 500 vessels of war at command.

What had been our situation ever since the negotiation? Have we not, said he, been one of the happiest nations upon earth? Yet we are about to oppose the necessary appropriations to carry into effect that Treaty which hath been the means of keeping us in a neutrality, and thereby hazard a war which may be our ruin.

We have had already new systems of finance proposed to us; but if the Treaty is not provided for, what hath been proposed will be found insufficient, and a land tax (although prejudicial to agriculture) must be resorted to. At present their resources arose from commerce, which, whenever a war took place, would be effectually stopped.

But gentlemen said there was no probability of a war at that time, though, he must confess, all their actions seemed to say the contrary. Did they not appropriate for fortifications, magazines, &c.? The State of New York well knew the situation of the Public Treasury, and, although the Constitution of the United States declares that Congress shall provide for the common defence and general welfare, yet they, knowing the defenceless state of their capital and frontiers, appropriated upwards of two hundred thousand dollars, which, with the small pittance of twelve thousand allowed by Congress, and the voluntary assistance of the city of New York, some considerable works were erected; previous to which, and at the time the negotiator went on his embassy, a ship of four or five guns could have laid that city under con-

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tribution. This was the situation of one of the first cities in the Union, at which was collected the last year four-fifteenths of the whole revenue of the United States; and, said he, thus we were situated when measures of coercion and reprisal were proposed.

But, say the gentlemen opposed to the resolution, Great Britain would not go to war with us, they are embarrassed already. Let me ask those gentlemen, said Mr. W., if Britain, when at war with the United States, France, and Spain, did not declare war against Holland? And, also, and at a time they must have been greatly distressed, what reason have we to suppose she would not declare war against us, when it was well known she could destroy our commerce, and lay our seaport towns under contribution, or destroy the most of them?

It was said, when the British committed depredations against the Danes and Swedes, they immediately got redress; but, the gentlemen do not tell us that the British did by them as they have done by us, by paying them for all their damages. He believed they did not.

It was said, our negotiator, when he could not get stipulations agreeable to his instructions, should have returned; but what necessity was there for his return? He had received his instructions from the Executive, and when he could not get a Treaty upon the terms he first proposed, he sought fresh instructions, and acted upon them. Having returned home, and the PRESIDENT and two-thirds of the Senate concurring, the Treaty was ratified, and promulged; and can it be supposed, said Mr. W., that the PRESIDENT and twenty Senators, coming from different parts of the Union, men of property, of tried virtue, and patriotism, would ratify an instrument that would ruin the nation?

A gentleman from Pennsylvania, [Mr. SWANWICK.] had observed, the Treaty was injurious to commerce, and that our commercial was equal to our agricultural interest. If so, said Mr. W., and we are involved in a war, would not one half of the interest of the United States be swept away? Gentlemen, said he, argue on the subject of commerce, as though we had a navy equal to Great Britain.

Was it not well known by the negotiator—by the PRESIDENT and Senate, that we had a large debt to pay off; that instalments were becoming due, and that in case of war, the expenses of Government would, of course, fall upon the agricultural interest? All things, therefore, considered, the negotiator determined upon the Treaty before us. Happy for America that he did so; for, if our commerce had been arrested, all our pursuits would have been arrested at the same time. Instead of our settlements being extended, and our commerce waited to every shore, our frontier settlements would have been deserted, and our ships laid up.

But, if we arrest the Treaty by refusing to make the necessary appropriations, can we suppose Great Britain will carry the Treaty into effect on her part? It would be inconsistent to

think so. Great Britain was certainly acquainted with what was going on within these walls, and would refuse to give up the posts at the time specified. Who had been the cause of the posts being so long kept from the United States? The State of New York had been too long kept from its just due; that State had not prevented the British from obtaining their debt, and the people now looked with anxious expectation to the time when the posts were to be given up. They were, at present, considerably alarmed, lest the British Treaty should not be carried into effect. He had received letters that morning, from some of his constituents, who were at New York, endeavoring to sell their produce (for a number of the farmers in that part of the country which he came from, did not sell their produce to the merchants, but attended the market with it themselves). They write the price of flour had already fallen three dollars a barrel, and wheat four shillings per bushel. Who were to be the losers, under these circumstances? The farmers. Who had the most produce to sell? The farmers in the State of New York. The other day a resolution was laid upon our table, proposing to lay an embargo on the exportation of corn. This, if it had been agreed to, would have had an immediate effect on the State of New York.

What was the effect of the embargo in 1794? The farmers were obliged to sell their produce for what they could get. Whatever loss was experienced, fell upon the farmer; and so it will be with respect to their present proceedings. If merchants cannot get insurance, will they send their vessels out? No; and they will certainly give no more produce than they can sell their articles for, with a trade profit.

The State of New York was peculiarly situated with respect to Upper and Lower Canada; and, if the posts were not given up, it would prove more detrimental to them than any other part of the Union. They would be prevented from a commercial internal intercourse with the Upper and Lower Canadas. Another Indian war, by which the frontier inhabitants would be greatly distressed; in short, every difficulty would attend them. On the contrary, should we so conduct ourselves, as guardians of the people ought, by supporting our public engagements, we may continue to be happy. Let this opportunity pass away—violate our national engagements, and there is reason to believe that confusion and wretchedness will be the consequence. The commodious harbor of New York will be attended with but few vessels, the beautiful river Hudson will be prevented of its usefulness, in bearing the surplus of our agricultural productions to market; the trade and intercourse of the towns of Albany, Schenectady, Troy, Lansingburgh, and Waterford, arrested; the useful settlers not only prevented from going to the fertile lands by the Lake Champlain, the Mohawk, and Genesee, but the late settlers, who, although they be numerous, yet, by being scattered in settlements, cannot be protected from Indian depredations, and therefore must remove. In short, said Mr. W., the difficulties which would

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arise by an Indian war to the frontier of New York (being at least 300 miles) at this time, would be immense. The lofty trees of the wilderness, instead of falling by means of the axe, would remain as a screen and defence for the savage, and aid him to send the weapon of death to the defenceless settler.

The eyes of the world, said Mr. W., are upon us; and the minds of the people in the United States became more and more agitated. How, said he, are our merchants to be recompensed for their spoiliations? His colleague, [Mr. LIVINGSTON,] supposed the agricultural interest must pay for all; for it could not be supposed that if war was the consequence, that merchants or traders would be called upon for contributions. He thought the resolution he had brought forward calculated to lull the merchants into security, without procuring any relief to them; for it was not likely that Government should lay taxes to pay money which the British would pay, in case the Treaty was carried into effect. Besides, as soon as commerce was stopped, a system of direct taxation must be resorted to. The spoiliations on the property of the merchants would also daily be increased. And, according to the doctrine of the gentleman from Pennsylvania, [Mr. SWANWICK,] those who are masters of the sea are masters of the land also; so that they stood but an indifferent chance in a warfare with Great Britain, if the doctrine of that gentleman be true.

He would ask gentlemen what induced them to believe that Great Britain would be willing to negotiate afresh? It had been suggested by the gentleman from Virginia, [Mr. MADISON] that this would be the case, if we do not provide for the Treaty.—Would they appoint another negotiator to go to Great Britain? What fit character would go? And, if any such was found, when he arrived there what must he say? That the Treaty which had before been made was a bad bargain, and that he was come to make a better? Would they say to him, “return home again, and tell your nation they are a faithless people; we thought we understood their Constitution, but they do not understand it themselves; we will negotiate no farther with them.”—And what security could this new negotiator give to the British Court that the Treaty, which he might enter into would be agreed to on his return home? If he said he had received his instructions from the Legislature of the United States, they might justly answer, there may be such a change in that body on your return, that the Treaty which you negotiate would not be acceded to. Would not their objections be well grounded? He thought they would; besides, the PRESIDENT having fixed a Constitutional principle he could not vary from it, and of course no new negotiator could be appointed for that purpose.

He would not wish to underrate the powers of the United States; but if they overrated it, they only deceived themselves. If they could preserve themselves at peace, they were a happy people, and progressing quicker than any nation in existence, and in a few years they might bid defiance

to any country; but, in the mean time, the whole world could not injure them, if they stood on their own ground.

It was a good position, he said, for legislators to act for the whole, and not a part; he believed every one would reprobate the idea of a contrary conduct. But what had they done? They had ratified the Treaty with Spain, because it opens the Mississippi; the citizens of the State of New York, also wish the British Treaty to be carried into effect, in order that the river St. Lawrence may be opened to the waters of the Lakes both to the north and west; and why not legislate for them? This would not only be an advantage to the State of New York, but to the whole Union. Let gentlemen consider the growing consequence of New York, in which there had been one thousand houses built the year before last. It has been calculated that a century hence that city would be equal to London. Go into the Mohawk country, which is surrounded with rivers and lakes, very advantageous to agriculture, also to Lake Champlain, by the borders of which the lands are fertile, to which Lakes rapid progress is making for the more convenient conveyance of the surplus of our agricultural productions to the city of New York, by inland lock navigation, which would be extended in a few years to the waters of Lake Erie, from thence up a river which is, without labor, navigable for boats calculated to carry a considerable burden, the navigable part of which is only two miles from a navigable part of the Muskingum to the river Ohio; or at another river boats may be conveyed up it to within nine miles of the Miami, and thence down the same through a champaigne country to the Ohio river. From this situation and a country so fertile and inviting to settlers, may we not calculate on two or three millions of people in some years hence, whose interest must be to carry their produce to the city of New York, for market? Gentlemen, said Mr. W., would do well to pause for a moment, and examine if the obtaining these posts was not an object of the first magnitude. Perhaps he came there with as unfriendly an opinion of the Treaty as many others, but, on hearing it explained, and taking a view of our situation, he was now convinced it would be for the good of the Union to carry it into effect; nay, he conceived that policy as well as interest required it.

The great objection against the Treaty was, that payment for the negroes which were carried away by the British, at the close of the war, was not provided for. It appears that this, at best, was a doubtful point. General Carlton, previous to his leaving New York at the close of the war, and when the negroes were demanded of him, said, that many slaves had been declared free by his predecessors before his own arrival; over these, he said, he neither possessed nor could assume any control. He considered them as at liberty to go to any part of the world which they thought proper. He was unwilling to suppose that the British Ministry could stipulate, by any Treaty, to make themselves guilty of a notorious breach of public faith to people of any color. He con-

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sidered restoration, where inseparable from a violation of that faith, as, in itself, utterly impracticable.

It was acknowledged by every gentleman that the Treaty of 1783 was broken by the United States; and, if so, what could their negotiator do? The British Government would not come into the same terms as the Treaty of 1783, in the sense and meaning of the gentleman from Virginia, nor would they admit that the Treaty compelled them to give up or make restitution for the negroes. Their negotiator, thus situated, no doubt concluded that the amount of the negroes was not an object which ought to prevent a negotiation so desirable at that time, and agreeable to the Law of Nations. The Treaty of 1783 had been violated. Here Mr. W. quoted several authorities, among which was *Marten's Law of Nations*: "The violation of one article only of a Treaty, by one party, may, at least successively give the other a right to violate the whole Treaty, unless this right has been formally renounced."

The United States having violated that Treaty, there was no other way than commencing a negotiation. And would gentlemen say that the negotiation had not been attended with beneficial consequences to this country? Was not peace the most to be desired, especially in our present situation? Had not the managers of our Government kept a watchful eye on our affairs? Had not our neutrality been the occasion of our wealth and prosperity? And having now entered into a Treaty with Spain, Algiers, and Natives, let us carry that with Great Britain into effect, and secure to us peace with all the world.

The gentleman from Virginia [Mr. MADISON] had observed, that although the obtaining the posts was a desirable object, yet that conditions were annexed to the partial execution of it in the surrender: that the carrying places are to be enjoyed in common, that the British would have a superior capital, and that goods being brought by way of Canada paid no duties. These conditions and restrictions [said Mr. MADISON] will do away the benefit which would otherwise accrue, so that the surrender of the posts would be of little value. But, said Mr. W., let us examine these observations, with the statement the same gentleman made in 1794, when he was computing the annual loss to the United States by the retention of those posts by the British: the Indian war one million of dollars, the loss of the fur trade two hundred thousand dollars. The same gentleman, said Mr. W., at that time, went into a summary statement of the annual losses sustained by this country, by Britain, and that he said, in the year 1793 alone amounted to three million nine hundred and forty thousand dollars. If these calculations were right, will the gentleman say the British Treaty is not of great advantage to us? The posts, if given up, must stand of nearly the same value as in 1794, yet the gentleman from Virginia, who had spoken on this subject, had declared they would now be of no benefit. He could not believe gentlemen were sincere in making those declarations. He believed they ought not to be made. They were the sen-

timents of "Cato," and other writers, who were strangers to that part of the country. But, said the gentleman, it was impossible any benefit could be derived from the posts, because the carrying places were not also entirely given up, no duties in Canada, &c. Mr. W. said, admitting that no duties were paid on goods coming by way of Canada, they never could go so cheap that way as through New York. It was well known that the river St. Lawrence was obstructed from six to seven months in the year, and that the river above Montreal is also of difficult navigation, from a violent current. He believed the gentleman, however, was mistaken as to there being no duties in Canada.

Mr. W. said, what he asserted respecting the Canada trade, he asserted from his own knowledge, having been engaged in it by way of Lake Champlain. To prove the propensity of the people to trade at New York, he would mention that the inhabitants on both sides of Lake Champlain, within a day's journey of Montreal, do not trade there, but come to New York, bringing with them their wheat, flour, potash, and other produce, and which must be transported by land upwards of sixty miles. This difficulty would soon be removed by means of inland lock navigation, which is now progressing.

Again: to put this matter beyond dispute, when New York and Canada belonged to Great Britain, the goods were landed at New York, and conveyed to the waters of the Western lakes by way of the Mohawk river. Can it be supposed, then, if goods were to be procured with less expense by way of Canada, they would have been sent by New York? No. The transportation from New York to Lake Champlain, and also by the way of the Mohawk river to the Western lakes, is becoming more easy and less expensive every day, by reason of the inland lock navigation, which is rapidly progressing. The merchants begin to find it for their convenience already to come from Canada by way of Lake Champlain to New York, and so to Europe, and so vice versa.

Again: Mr. W. called upon the merchants to reflect on the embarrassment on trade which must arise in their not being able to make returns frequently under two years by way of the river St. Lawrence.

Gentlemen who assert that this trade would be of no use to the United States, would do well to consider those facts, with respect to capital; he was surprised to hear a gentleman so noted as a legislator, mention such a thing. There was capital sufficient and could be procured, in Albany and Schenectady, in a week. What sum did the gentleman suppose was employed? Not exceeding 150,000 pounds sterling. Was this even advanced? No. Generally a great part on credit. Government had passed an act for the appropriation of 150,000 dollars towards that object.

Another objection was advanced respecting the restriction. Was it ever known, he asked, that a savage people would be restrained to trade with one class of traders? What did the people of France and Britain do at the Treaty of Utrecht

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in the year 1713? They left the Indians to trade as they pleased, and he believed it the best way. He did not think the people of England were more industrious than the Americans, or that they could be outdone by them. He did not pretend to understand commerce; he was a farmer, and he gloried in it, but when gentlemen made assertions, blinded by a wrong Republican zeal, he wished to notice them.

Let them turn their eyes which way they would, the posts would prove of the greatest advantage to the United States. Numbers of people were going into that country to settle. Now was the time to settle the course of their trade, because when settled, it was not easily altered, and they ought to embrace it. It would be the means of keeping up a good understanding with the Indians and prevent a misunderstanding, if not a war.

The next objection was with respect to aliens. It at first surprised him, but upon more mature examination, he did not see that any law of the United States would prevent the settlers at the posts from remaining there. There never was any difference made in the State of Vermont. There were not more than two or three thousand people, chiefly French Canadians and their descendants at Detroit, and they would no doubt all wish to become citizens of the United States. They will either remain and become citizens, or go beyond the lines. Was it not a principle in their Constitution to naturalize foreigners? They will find it their interest to become citizens, and will not remain aliens. Has it not been the general policy and practice with us to facilitate naturalization of foreigners? Those people will soon wish to enjoy natural rights, which is so deeply impressed in the human breast.

With respect to mercantile principles, as the subject was so ably discussed yesterday by a mercantile man [Mr. GOODHUE] it would be only unnecessarily taking up time to enter upon it again. The contraband article had also been ably discussed by him.

With respect to sequestration, it was said to be giving power out of their own hands. Shall two individuals, under one jurisdiction, because the two nations disagree, be injured by means of confiscation? He hoped not. The consequences must be dreadful. And there could certainly be no doubt but it was the interest of the country to support the credit of public funds; but what would be the consequence if sequestration was ever to be resorted to? Would any foreigner choose to risk his property on such an uncertain foundation? Certainly not; and the price of stock would accordingly fall in a very serious manner. But, to put this question out of the way, he believed, from a fair calculation, the United States had property floating on the sea to the amount of 30 millions, at the least, without defence or protection; whilst he was of opinion there was not British property in this country to a larger amount than six or seven millions. Where then was the security for sequestration, if whilst we could only lay hold of six or seven millions, the British might take

from our merchants four times the amount? It was perfectly clear, that the British, having the command of the sea, could obstruct our commerce as they pleased, and, for the present, we must submit.

Would you wish to impose upon a man, said Mr. W., when you could not well do without him? If it was beneficial to Great Britain to carry on trade with the United States, it was also desirable to this country that such trade should be carried on. It was true Great Britain had given considerable trouble to their merchants; but what was this owing to? It was owing to their attachment to the French! He was not averse from their supplying that nation with provisions. It was right that they should do all the good they could to them, because they assisted this country in the time of their need, and they had a claim upon them in their turn. But considering the matter in this light, was it very strange that when Britain stood in need of supplies, and we were carrying provisions to her enemy, that she would interrupt them? Certainly not. How far they were to be justified he would not say.

If they did not appropriate for carrying the Treaty into effect, he wished to know what reason gentlemen had to believe they should not be involved in war? And if so, what was their situation? We have not, said he, any Navy, except three frigates we have agreed to have finished. Nor did he wish to have any. And shall we by refusing to appropriate to carry an instrument into effect, by which the country may be preserved in peace, be guarding the people's rights, or answering the purpose for which we were appointed? Great Britain may not be disposed to declare war against us, but she may augment the spoiliations on our commerce, and thereby cause us to declare war.

But, say gentlemen, if Great Britain was to go to war with America, the West Indies would be starved for want of provisions. But he would ask, if that were the case when she was at war with France, Spain, Holland, and America? No such thing. It was well known, that wherever a merchant could get the highest price for his merchandise, he would find means of sending it. Were not horses sold the other day from Virginia, to the British, and sent to the West Indies to be employed against the French, because they gave a good price for them? And would not persons be found, if they were to go to war to-morrow with Great Britain, who would be ready to supply the British West Indies with provisions? They certainly would. Hence they would always be supplied. Would a gentleman tell me, said he, that he was a friend of France, when he was clothed from head to foot with English manufactures?—and who, if he were to go into a shop where English and French goods were placed before him, would invariably purchase the English, being best and cheapest. The truth was verified by the sale of horses in Virginia. Were not the Virginians much in favor of France? Did they not know the horses were to be sent to the West Indies, to operate against the French? How came

it that those people sold their horses to the English? The answer is easy and at hand, because they paid the greatest price.

The gentleman from Virginia [Mr. MADISON] concluded with a fine remark, viz: "That he supposed the PRESIDENT had signed the instrument to prevent further spoiliations upon the commerce of our merchants." This was a proof that that great and good man considered the interest of his constituents.

Before he sat down he would make a few remarks upon what had fallen from the gentleman from Pennsylvania [Mr. SWANWICK] who had displayed his oratorical articles upon the checks and balances of our Constitution. He had the honor, he said, of being one of those who framed the Constitution of New York, and he had been a member of the Legislature ever since, except during one session. That Constitution was similar as to the enacting of laws, to the Constitution of the United States. Shall we not deliberate, said that gentleman, before we appropriate 80,000 or 90,000 dollars? Yet it was only the other day when the same gentleman wished to finish the whole of the frigates, which would have required more than a million of dollars; but no cautions were then given about the greatness of the sum; indeed he said it would be only the interest which would be wanted, because it was a favorite object.

The same gentleman next mentioned the property he had at sea, and that he was not afraid of it. It was well for that gentleman, that if his ships were taken, he had other resources; but this was not the case with many other merchants. Supposo, however, we were reduced to war, and the gentleman lost all his vessels? He himself could not boast of having vessels, but he had a few acres of land on the frontier which he wished to have settled; but in case of a war with the Indians, the frontiers will be deserted, and the families now living there in peace will be ruined. In the district which he represented, hundreds of industrious families, some with six or eight children a-piece, lived in log huts, and who, at the sound of war with the Indians would fly from their habitations. Gentlemen who live surrounded by luxuries in a city do not think of the situation of this class of their citizens, who were nevertheless worthy of their consideration. He wished the gentleman from Pennsylvania, whose valor he did not doubt, had been with him in the late war, when he marched seventy miles before the enemy, forty of which with his family in the greatest distress.

But, says the same gentleman, we ought to have the Thames opened to us as freely as we open the Delaware to the British. He wished it were so. The whole force of that gentleman's doctrine was, that the commercial was equal to the agricultural interest, because three dollars on a barrel was got by carrying flour to the West Indies; but, in case of war, he wished to know where he would sell his flour, if he could get it? Would he proceed as the gentlemen in Virginia had done, in the sale of horses to the British? Why hold out such an idea?

With respect to the article relative to the East Indies, the people of England and in Ireland, he said, were greatly dissatisfied with the privileges given to America, and yet it was said in that House these privileges were nothing worth, that the British might build warehouses here, and ruin the trade at present carried on to that country. The Treaty, Mr. W. said, allowed the Americans certain rights with the Company itself, who was at a great expense in carrying on their affairs. Had they any right, being at no expense, to expect an equal participation in this trade? Certainly they had not.

But, gentlemen say, one-third of the manufactures of Great Britain come to this country, and therefore she will never go to war with us. He had never heard before that more than one-sixth of the manufactures of Great Britain were brought to this country. But, said Mr. W., the better the trade was to Great Britain the greater her caution not to wound our feelings; and if the Treaty does not operate well they will alter it, knowing it to be their interest so to do.

The gentleman from Pennsylvania [Mr. SWANWICK] had said, he was surprised our negotiator did not know the dexterity and perseverance of our citizens in the extension of commerce, as well as a member of Parliament of Great Britain, [Mr. Burke] who some years ago, in a speech, said, that although the Americans were but in the gristle, yet they were extending commerce to all parts of the world. We are now, said that gentleman, as young men out-grown their clothes. Mr. W. observed it was analogous as to the protection of our commerce; a young man when he hath out-grown himself, as it is termed, his bones are too spungy, out of shape, want that solid texture in the component parts: our negotiator therefore endeavored to prevent too great a pressure, until by time it became more solid.

It was true, Mr. W. said, that great spoiliations had been committed upon the property of our merchants; but we had no certainty that they had been committed by the authority of the British Government. If that nation, or any other, were determined to make war upon us, he said he would go as far as any man in opposing force to force; but he should be unwilling to promote measures which were likely to bring them into that situation, because the partial encroachments on our property in time of war, are trifling compared to the extensive field of expenses, embarrassments, and interceptions, of the pursuits, on which our true interests depend, which would eventually follow our being comparatively able to act offensively instead of defensively. No; rather let every measure in their power be taken to prevent so great an evil as war. We may continue at peace with all the world, and shall we then mar the prospect? Because differences had crept in betwixt two branches of their Government, shall we suffer them to destroy our prosperity and peace? No; let us look forward to the public good, and do away all private resentment.

It was to be lamented that so much of party was observable in their proceedings. The gentle-

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man from Pennsylvania [Mr. MACLAY] had laid a resolution upon the table, calculated to defeat the execution of the Treaty. And what was this for? Because the PRESIDENT would not bend his will to a majority of that House. And what were they now debating upon? Had not the discussion been solicited by the majority of that House? It was, and he would venture to say, there never was before an instance of a majority wishing to convince a minority. If gentlemen were determined to destroy the Treaty, let them come forward and do it. Why waste so much precious time and money unnecessarily?

The will of the people was expressed in the Constitution, and he hoped it would be obeyed; for, if it was not, the consequence would be dreadful. When he left home, three fourths of the people were against the Treaty, but now, by letters he had received, a very large majority wished it to be carried into effect, seeing that the peace, the happiness, and the prosperity of the country depended upon it.

What were the arguments of gentlemen? Because the PRESIDENT has refused to send them certain papers that were asked for, they were determined to destroy the Treaty. Was this acting like the Representatives of a free people? Because if they were of opinion the PRESIDENT had done wrong, should they do wrong also? Did they ever know that two wrongs made a right?

The instrument should be taken up fairly, and the question should be solely met upon the ground of public advantage. If it was thought for the advantage of the United States to destroy the Treaty and take the consequences, he must surrender his opinion to the will of a majority. He gloried to join in a majority. He had never desired a man in the majority to change his opinion. Why, then, is it said the minority wanted to cram the Treaty down the majority's throats? But he would beg gentlemen to pause for a moment; for it was well known that men of sense may sometimes be so far prejudiced in their own opinions, as not to be able to see the truth. He believed every member acted as he thought was for the best, but prejudice might have laid too fast a hold upon some of them. He hoped they should act for the benefit of the Union at large; and if so, he hoped gentlemen who had voted for opening the Mississippi would take a view of the river St. Lawrence, the Lakes, and New York. He hoped, however, the business would be settled with candor, and if so, he trusted harmony and confidence would be the consequence.

When Mr. WILLIAMS had concluded—

Mr. HILLHOUSE rose and said, the subject now under consideration was one of the first magnitude he had ever been called to deliberate upon, and that the circumstances under which it came up were peculiar, for, previous to the Treaty's being either promulgated or known, a hue-and-cry had been raised, and the prejudices of the people as much as possible excited against it, and he confessed it had not been without its effect upon his own mind. When the Treaty came out, therefore, he was led to examine it with attention, compare

it with our Treaties with other nations, and those between Great Britain and other nations; the result of this inquiry was, that he found that no privilege or advantage given by Great Britain to other nations was withheld from us; that advantages were secured to us which were enjoyed by no other nation, nor even by her own subjects; that we gave her little that was not enjoyed by every other nation; and, on the whole, that it was as good a Treaty as we had a right to expect, and as he had ever expected to obtain. He was sensible that prejudice, which, like a sentinel at the door of the human mind to keep out truth and argument, had induced many good citizens of the United States at first to be opposed to the Treaty, who, upon being prevailed on to give it a more candid examination, had declared in favor of it; but he hoped the Representatives of the people, called to decide on a question which might affect the dearest interests of millions, would, as much as possible, divest themselves of prejudice and passion: to do it entirely, he believed, was impossible.

The first, and, if well-founded, the most important objection which he had heard made against the Treaty was, that a claim for negroes and other property carried away from New York had been wholly overlooked or given up by our Minister. Here, he said, he was sensible any argument he might advance would be opposed by the party opinions formed at the time—when judging in our own case, and when we felt a great degree of sensibility for the losses and injuries we had recently experienced. He was not unapprised that Congress had claimed that the construction of the 7th article of the Treaty was such as to require the delivering up of the negroes, and had passed the resolution read by the gentleman from Virginia, [Mr. HEATH,] and that that opinion had, without examination, been implicitly followed by many respectable characters; but he hoped, at this distance of time, he might expect a candid hearing, whilst he examined their arguments and the Law of Nations, to which alone resort can be had to decide differences between sovereign and independent nations. To his mind they were conclusive that we had not a well-founded claim; to every mind, he believed, they would render the claim at least doubtful.

His first inquiry, he said, should be, whether negroes were to be considered as property? This he believed, must be admitted: they were thus recognized by the article itself, which says “negroes or other property.” Negroes being mentioned amounts only to a specification of one kind of property; as, in the Constitution, it says “capitation or other direct taxes,” which is a conclusive recognition that a capitation tax is a direct tax, within the meaning of the Constitution. Upon no other ground than that of property could the United States claim them; as men, they had a right to go where they pleased. Our Commissioners, at the time of the embarkation, had no hesitation in declaring that they considered “negroes, horses, and other property,” as being precisely on the same footing, and selected a claim

for a horse as one of the strongest that could be found to enforce a compliance with this construction of the article. The claim was in these words:

"Mr. Vanderburgh had a horse stolen from him, out of his stable in Beekman's Precinct, in Dutchess county, 26th February, 1780, and the horse was conveyed by the person who stole him to a then British post, in Westchester county, where he has since been detained; so that Mr. Vanderburgh could not recover him again. The horse is now in the possession of Col. James De Launey, of this city, from whom Mr. Vanderburgh has demanded him, and who refuses to deliver him to Mr. Vanderburgh."

In the letter of the Commissioners to General WASHINGTON, on this subject, they say:

"In the interview between the 15th and 24th, numbers applied to us for a restitution of their negroes and other property in the possession of others, but we supposed it most eligible to defer a requisition till a clear unequivocal case, similar to that of Mr. Vanderburgh's, where the proofs were at hand and not embarrassed with the circumstances of a capture in war or other pretences under which property is withheld here, should present itself; sensible that if restitution was denied in such an instance, it would inevitably be in every other."

It therefore appears clear that negroes, horses, and other property, were, by this article, placed upon the same footing, and that it was as much a violation of the Treaty to carry away a horse as a negro.

He next proceeded to inquire what was the situation of this property, and in whom, according to the Law of Nations, it was vested at the time of executing the Treaty? This point, he said, Mr. JEFFERSON had fully settled to his hand, and read out of his collection the following extracts:

"We now come together, (says Mr. Jefferson) to consider that instrument which was to heal our wounds, and begin a new chapter in our history. The state in which they found things is to be considered as rightful; so says the Law of Nations.—*Vattel*. The state in which things are found at the moment of the Treaty, should be considered as lawful, and if it is meant to make any change in it, the Treaty must expressly mention it. Consequently, all things about which the Treaty is silent, must remain in the state in which they are found at its conclusion.—*Bynk*. Since it is a condition of war that enemies may be deprived of all their rights it is reasonable that every thing of an enemy's, found among his enemies, should change its owners, and go to the Treasury. It is moreover usually directed, in all declarations of war, that the goods of enemies, as well those found among us as those taken in war, shall be confiscated."

These authorities, he said, clearly proved that all negroes and other property which in the course of the war had been taken, or in any way had fallen into the hands of the British, had shifted their owner, and were no longer the property of the American inhabitants. In the case of negroes, the British Commander-in-Chief had exercised the highest act of ownership, by manumitting such of them as should conform to certain stipulations, pointed out in his proclamation. If any change was intended to have been made by the Treaty in the circumstances of these negroes, and it had

been intended they should be again returned into bondage, there would have been some express stipulation to that effect in the Treaty. The words are, "and without causing any destruction, or carrying away any negroes or other property of the American inhabitants, withdraw all his armies," &c. There is nothing that indicates the least intention that this article should have a retrospective operation. It can only relate to property then belonging to the American inhabitants. Wherever any article was intended to have a retrospective operation, some expression is used that clearly shows such intention. In this same article, speaking of delivering up records, deeds, &c., these words are added, "which in the course of the war may have fallen into the hands of his officers," &c. In the 4th article, "debts heretofore contracted." Any other construction would have required the restoration of vessels which had been taken from the Americans, and were then in New York, under the term "other property," as well as negroes and horses. If any negroes or other property, in the possession of the American inhabitants at or after signing the preliminary articles, were carried off, it was no doubt a violation of the Treaty, but he had not understood that they refused to deliver up property of that description, or that such property was carried off to any great amount.

But this matter does not rest only on there being no words in the Treaty which can be construed to have a retrospective operation, but it is fairly to be inferred from the papers contained in this same collection of Mr. JEFFERSON, that it was so understood by the negotiators; for, in the course of that negotiation, it appears to have been a primary object with the British Minister to obtain restitution of the Tory estates, or compensation for them. They almost made a *sine qua non*, and a refusal to comply had well nigh broken off the negotiation; and to induce the British Minister to relinquish that article, our Commissioners brought in a claim for negroes and other property which had been taken, and towns and villages which had been destroyed during the war. He here read the following letter from Mr. Oswald, the British Minister, to our Commissioners, viz:

"You may remember, that from the very beginning of our negotiation for settling a peace between Great Britain and America, I insisted that you should positively stipulate for the restoration of the property of all those under the denomination of Loyalists or Refugees, who have taken part with Great Britain in the present war; or if the property had been resold, and passed into such variety of hands as to render the restoration impracticable, (which you assert to be the case in many instances,) you should stipulate for a compensation, or indemnification to those persons adequate to their losses. To those propositions, you said, you could not accede. Mr. Stacey, since his arrival at Paris, has most strenuously joined me in insisting upon the said restitution, compensation, or indemnification, and in laying before you every argument in favor of the demands, founded on national honor, and upon the true principles of justice. Those demands you must have understood to extend, not only to all persons of the abovementioned description, who have fled to Europe, but likewise to all

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those who may now be in any part of North America, dwelling under the protection of His Majesty's arm, or otherwise. We have also insisted on a mutual stipulation for a general amnesty on both sides, comprehending thereby an enlargement of all persons who, on account of offences committed, or supposed to be committed, since the commencement of hostilities, may now be in confinement, and for an immediate repossession of their properties and peaceable enjoyment thereof, under the Government of the United States. To this you have not given a particular and direct answer. It is, however, incumbent on me, as Commissioner of the King of Great Britain, to repeat the several demands, and without going over those arguments upon paper, which we have so often urged in conversation, to press your immediate attention to these subjects, and to urge you to enter into proper stipulations for their restitution, compensation, and amnesty, before we proceed further in this negotiation."

To which our Commissioners returned the following answer:

"In answer to the letter you did us the honor to write on the 4th instant, we beg leave to repeat what we often said in conversation, viz: that the restoration of such of the estates of the refugees as have been confiscated is impracticable, because they were confiscated by laws of particular States, and in many instances have passed by legal titles through several hands. Besides, sir, as this is a matter evidently appertaining to the internal policy of the separate States, the Congress, by the nature of our Constitution, have no authority to interfere with it. As to your demand of compensation to those persons, we forbear enumerating our reasons for thinking it ill-founded. In the moment of conciliatory overtures, it would not be proper to call certain scenes into view, over which a variety of considerations should induce both parties at present to draw a veil. Permit us, therefore, only to repeat, that we cannot stipulate for such compensation, unless on your part it be agreed to make restitution to our citizens for the heavy losses they have sustained by the unnecessary destruction of private property. We have already agreed to an amnesty more extensive than justice required, and full as extensive as humanity would demand; we can, therefore, only repeat that it cannot be extended further. We should be sorry, if the absolute impossibility of our complying further with your propositions, should induce Great Britain to continue the war, for the sake of those who caused and prolonged it; but, if that should be the case, we hope that the utmost latitude will not be again given to its rigors. Whatever may be the issue of this negotiation, be assured, sir, that we shall always acknowledge the liberal, manly, and candid manner, in which you have conducted it."

In consequence of information from our Commissioners that the claim was made, and pertinaciously insisted on by the British Minister, Congress passed the following resolutions, viz:

"Resolved, That the Secretary for Foreign Affairs be, and he is hereby directed to obtain, as speedily as possible, authentic returns of the slaves and other property which have been carried off or destroyed in the course of the war by the enemy, and to transmit the same to the Ministers Plenipotentiary for negotiating peace.

"Resolved. That, in the meantime, the Secretary for Foreign Affairs inform the said Ministers, that many thousands of slaves, and other property to a very great

amount, have been carried off or destroyed by the enemy, and that, in the opinion of Congress, the great loss of property which the citizens of the United States have sustained by the enemy, will be considered by the several States as an insuperable bar to their making restitution or indemnification to the former owners of property which has been or may be forfeited to, or confiscated by, any of the States."

Dr. FRANKLIN, in a letter to the British Minister, says:

"I must repeat my opinion, that it is best for you to drop all mention of the refugees. We have proposed, indeed, nothing but what we think best for you as well as ourselves. But if you will have them mentioned, let it be in an article which may provide that they shall exhibit accounts of their losses to Commissioners hereafter to be appointed, who shall examine the same, together with the accounts now preparing in America of the damages done by them, and state the account; and that if a balance appears in their favor, it shall be paid by us to you, and by you divided among them, as you shall think proper. And if the balance is found due to us, it shall be paid by you. Give me leave, however, to advise you to prevent so dreadful a discussion, by dropping the article, that we may write to America and stop the inquiry."

The following article was accordingly drawn up, and proposed to be inserted in the Treaty, viz:

"It is agreed that His Britannic Majesty will earnestly recommend it to his Parliament to provide for and make compensation to the merchants and shopkeepers of Boston, whose goods and merchandise were seized and taken out of the stores, warehouses, and shops, by order of General Gage, and others of his commanders or officers there; and also the inhabitants of Philadelphia, for the goods taken away by his army there; and to make compensation also for the tobacco, rice, indigo, negroes, &c., seized and carried off by his armies under Generals Arnold, Cornwallis, and others from the States of Virginia, North and South Carolina, and Georgia: And also for all vessels and cargoes belonging to the inhabitants of the said United States, which were stopped, seized, or taken, either in the ports or on the seas, by his Governors, or by his ships of war, before the declaration of war against the said States. And it is further agreed that his Britannic Majesty will also earnestly recommend it to his Parliament to make compensation for all the towns, villages, and farms, burnt and destroyed by his troops or adherents in the said United States."

After pressing the matter to the utmost extent, we find, by Mr. ADAMS'S JOURNAL, that on the evening previous to signing the Treaty, the Ministers on both sides came to the following result:

"Upon this I recounted the history of Gen. Gage's agreement with the inhabitants of Boston, that they should remove their effects, upon condition that they would surrender their arms; but as soon as the arms were secured, the goods were forbid to be carried out, and were finally carried off in large quantities to Halifax. Dr. Franklin mentioned the case of Philadelphia, and the carrying off effects there, even his own library. Mr. Jay mentioned several other things; and Mr. Laurens adled the plunder in Carolina, of negroes, plate, &c. After hearing all this, Mr. Fitzherbert, Mr. Oswald, and Mr. Stacey, retired for some time, and returning Mr. Fitzherbert said, that upon consulting together, and weighing everything as maturely as possi-

ble, Mr. Stacey and himself had determined to advise Mr. Oswald to strike with us according to the terms we had proposed, as to our ultimatum respecting the fishery and the loyalists. Accordingly we all sat down, read over the whole Treaty and corrected it, and agreed to meet to-morrow at O's house, to sign and seal the Treaties."

Will any candid man say, after reviewing these circumstances, that the 7th article was meant to secure the restitution of negroes and other property taken in the course of the war? If that had been meant, would it not have been improper to have urged it as an argument against the introduction of an article which would have subjected this country to immense embarrassment and expense?

It is true that the United States did challenge negroes and other property, which had fallen into the hands of the British previous to signing the Treaty. This circumstance, for the reason he had mentioned, and others that might be suggested, ought to have very little weight, for it is well known that recriminations of a violation of the Treaty soon commenced on both sides, and each mustered up every tolerable claim; many of which have since been admitted on both sides to be groundless. A circumstance which strongly corroborated what he said was, Sir Guy Carlton's letter on that subject had also been so grossly misunderstood and misrepresented, from that time to this, and now advanced by a gentleman on this floor, [Mr. GILES,] and even by Mr. JEFFERSON—in this instance departing from that candor which is so conspicuous in almost every other part of this excellent performance—for, when speaking on this subject, he says, "here there was a direct unequivocal, and avowed violation of this part of the 7th article, in the first moment of its being known." Mr. JEFFERSON has given us a copy of Sir Guy Carlton's letter to General WASHINGTON, which is relied on to support this assertion, which is so far from speaking such a language, that in his opinion, it was directly the reverse, and that in a very pointed manner. His words are:

"I must confess, that the mere supposition that the King's Minister could deliberately stipulate in a Treaty an engagement to be guilty of a notorious breach of the public faith towards people of any complexion, seems to denote a less friendly disposition than I could wish, and I think less friendly than we might expect. After all, I only give my own opinion. Every negro's name is registered, the master he formerly belonged to, with such other circumstances as serve to denote his value, that it may be adjusted by compensation, if that was really the intention and meaning of the Treaty. Restoration was inseparable from a breach of public faith, and is, as I think all the world must allow, utterly impracticable."

Gen. WASHINGTON, at that time, seemed disinclined to give an opinion on that subject, but intimated the propriety of leaving any doubtful clause of the Treaty to be settled by future negotiation; for in a letter from him to our Commissioners in New York, dated June, 1783, who had written to him for particular and pointed instructions on this very subject, there is this passage:

"It is exceeding difficult for me, not being a witness

to the particular cases, or acquainted with the particular circumstances which must fall under your view in the course of the evacuation, to give you a precise definition of the act which you are to represent as infractions of the Treaty; nor can I undertake to give an official construction of any particular expression or terms of the Treaty, which must, in cases of ambiguity or different interpretations, be explained by the Sovereignty of the two nations, or their Commissioners appointed for that purpose."

A letter drawn up with great caution and extremely characteristic of that great man, who has always been extremely careful never to commit himself, but upon mature deliberation and upon sure ground. Here, Sir Guy Carlton, as a public officer of Great Britain, had made an explicit declaration on the subject, and that was directly against our claims; for his directing an inventory of the negroes, was only an evidence of his being disposed to conduct candidly in the matter, and give us an opportunity to recover a compensation, if we could afterwards make out our construction of the Treaty to be right.

Both in the United States and Great Britain it is admitted, as a sound rule of construction, that where any law or instrument is doubtful, and the liberty of any one, even of a slave, to be affected by it, that construction was to be preferred which was favorable to liberty. Under this rule, ought this Treaty to be so construed as to reduce to slavery three thousand persons who had obtained their liberty, by putting themselves under the protection of the British arms, unless there was some positive unequivocal stipulation in the Treaty which could admit of no other construction; he hoped, for the honor of America, they would make no such challenge. There was another circumstance which he had never seen mentioned, which in his opinion, greatly weakened our claims, which was the doubts he entertained of our right to demand of a foreign nation the restitution of a runaway slave. The United States are now at peace with all the world; suppose a slave should escape into the dominions of a foreign nation, and on demand they should refuse to deliver him up? he very much doubted whether we should have just ground of complaint. On the other hand, if any of our citizens may be so unfortunate as to be reduced to slavery by any of the Barbary Powers in Africa, should make their escape into the dominions of any of the European nations, and upon being claimed by such Powers, should be delivered up, he did believe we should have good ground of complaint against such nation, as being unjust and inhumane. And, so far as principle is concerned, what difference does it make whether the citizens of the United States are carried into slavery in Africa, or the inhabitants of Africa are brought into slavery in the United States? he knew of no principle that made a difference between the natural rights of a white or black man. The first principle that is laid down in the rights of man, is, that all men are born free and equal; it does not say all *white* men. He did not believe, he said, that the House would ever admit so absurd a doctrine, as that the different

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shades in a man's complexion would increase or diminish his natural rights. He hoped no gentleman would take any exception to what he had said on this point; he did not mean to give offence, or to throw any reflection on any part of the Union, on account of their having a larger proportion of slaves. It was an evil which existed at the commencement of our Revolution, and he trusted every part of the Union would get rid of the evil as soon as it should be practicable and safe. What he had said, was only what he felt himself bound to do in justification of our Minister for his having given up that claim. The next objection, he said, that he should notice, was, that we suffered aliens, who were settled around the posts, to remain and enjoy their property, and have their election to become citizens or not. From the stress laid on this objection, he had been led to imagine it an evil of great magnitude, and that there were vast numbers of these aliens who might cause great alarm or danger to the United States, and being unacquainted with that country, he had made some inquiry, and found that none of the posts except Detroit and Michilimackinac, have any settlers around them; that these are principally the descendants of the old French inhabitants, who were permitted to remain and enjoy their property when the country was ceded to Great Britain by France; that a few English, Scotch, and Irish, have intermingled among them, but to a small amount; that they are attached to the soil, and that from the solicitude manifested by all foreigners to become citizens of the United States, there was little doubt but that they would unite themselves to us. It must be recollected, too, that we not only did not discourage, but rather gave countenance, to the introduction into our Atlantic ports of the English, Scotch, and Irish, from this same nation, who are continually importing by ship loads—some of them, it is true, men of character and property, most of them without property, and some without character or property, and permitted them to reside as foreigners, if they choose it. He could not, therefore, account for gentlemen's alarm on this head.

The next objection he noticed was, to the 18th article, which relates to contraband goods. It is admitted by the gentleman from Virginia, [Mr. MADISON,] that it does not extend to any article not contraband by the Law of Nations, yet he regrets it being introduced, as it may be considered as more than an acquiescence on our part, that the Law of Nations should have an operation to that extent, and, in a degree, as subscribing to the doctrine. If this article comprised all contraband goods, he should join with the gentleman and say, there was no reason for its introduction into the Treaty; but he could show a very good reason why it was introduced, and which was peculiarly interesting to the State he had the honor to represent; it exempted an important article of export from this country from the list of contraband, which is made so by our Treaties with Spain, France, and all other nations excepting Prussia, in which nothing is to be contraband. He meant, he said, the article of horses which are grown in the United

States, in great numbers, and for which we want a foreign market. By the official return in his hand, he said, it appeared that, in the year 1792, there were exported 5,556 horses; of these, Connecticut exported 4,349. The course of this trade has generally been to other than the British West India Islands, mostly to those of France, which adds vastly to the importance of the article. He hoped none of the sister States would be so ungenerous as to object to the insertion of this article, so important to Connecticut, when it would be admitted, on all hands, that the insertion could not possibly operate to the advantage of any other.

In the same article, the regulations relative to provision vessels is objected to, the last in the whole Treaty he should have expected would have met with any objection, for it is altogether in our favor, and a candid reading of it will show the stipulations to be, that, if a vessel laden with provisions or other articles which are contraband is taken, (and no others are thereby authorized to be taken,) which, by the Law of Nations, would be liable to trial and condemnation in a Court of Admiralty, instead thereof, they shall be paid for with a reasonable mercantile profit, freight, &c., stipulating, also, that, when vessels are found going to a besieged or blockaded place, not knowing thereof, they shall be turned away, and not seized, as, by the Law of Nations, they would be liable to be; and that vessels, or goods found in a besieged place, shall not, upon the surrender of such place, be liable to confiscation. Two winters ago, he well remembered, that complaint was made on that floor against Great Britain, because she allowed such advantages to Denmark, with whom she had a Treaty to that effect, and denied them to us, and now the Treaty which contains this stipulation is complained of by the same gentlemen. What are we to think of a cause, where resort is had to such arguments and objections as these to defend it, and that, too, by gentlemen of such ingenuity and abilities, as it must be confessed they possess, and who would be able to find solid arguments and objections if there were any, and would never resort to those that were weak and inconclusive, if there were any that were better, any more than a drowning man would catch at a straw, when there was anything more substantial within his reach?

The 17th article, relative to neutral bottoms not making free goods, has been objected to, and generally considered as an impolitic stipulation. Here it may be remarked, that this article is in just conformity to the Law of Nations, and it was not possible to alter it without the consent of Great Britain, which there was not the least probability of our obtaining, she having generally refused to make such stipulation with other nations. And, he said, he had his doubts of the policy of this measure, as it related to the United States. Had Great Britain been willing, our only resort, in case of a war with that nation, would be our privateers; with these we could greatly annoy and distress her trade; they would be, as a gentleman the other day said, our militia on the ocean;

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but if neutral bottoms were to make free goods, it would be in their power to defeat most of our operations in this way. by employing neutral bottoms to carry goods to such places as were most exposed to our privateers: and where a small number of vessels were necessary, and sending their other merchantmen under convoys, which they would be able to afford to the more important branches of their trade. We are differently circumstanced from the European nations, most of whom have fleets sufficient to demolish almost any convoy, and privateering would not so much be an object; they could get supplies under the convoy of their own ships, but we have nothing that could meet a single ship-of-the-line, or to convoy any trade or supplies, and must depend wholly on privateering. The more diffusely their property was spread on the ocean, therefore, and the more ways in which we could come at it the better. The only advantage we can derive from such an article could be, that, in time of war, we might become the carriers of other nations; but, when we consider the distance those nations are from us, the immense quantity and bulk of the produce of our own country, which require transportation, it cannot be a matter of vast moment. No doubt, we can find sufficient employment for our navigation. The peculiar circumstances of the West Indies has, perhaps, made that a more important object in the present war, than it ever would be again. Another circumstance which greatly lessened the importance of such an article, was the small probability of its being strictly observed. We have such an article in our Treaty with France, but it has not been much regarded by that nation, nor will any nation at war be very scrupulous in such a case.

It had been his intention, Mr. H. said, to have taken a view of the commercial advantages which the United States might expect to derive from this Treaty, which opens to us the fur trade, and the trade into Canada and the East Indies; which, in his opinion, were of vast importance to the United States, but those advantages having been so ably pointed out by the gentleman from Massachusetts [Mr. GOODHUR,] who, on the subject of commerce, subjoins practical knowledge with theory, who represents the most commercial part of the United States, there being more than one-third part of all the tonnage in the United States owned in the State which he represents, he should only declare that he fully subscribed to what that gentleman had said on that subject, and he doubted not it would have weight with the Committee, as many of them must have found that the information which that gentleman had, ever since the establishment of this Government, been in the habit of giving, on all commercial subjects, was candid and correct. He would, however, make one remark, arising from particular information on the subject of the fur trade, which was, that a considerable proportion of the furs which had supplied the Eastern market, had been obtained for many years past by a contraband trade, in which it was calculated to lose nearly one-fifth part. If the trade could be carried on under these disad-

vantages, surely, when our merchants can enter into that trade upon a certain and perfectly fair footing, there is little doubt that they can carry it on successfully.

He next proceeded to remark on article 10th, which respects sequestration. He would, he said, lay out of the question everything that related to the morality of the measure. Many things which relate to war might not, perhaps, be perfectly reconcilable to the strict principles of morality; he should take it up in a political point of view only, and could not conceive of any possible state of things which could make it either politic, or for the interest of the United States, to resort to such a measure. We are a young, growing country, and an immense field is, and for many years to come will be, opening for the improvement of capital, which can only be supplied by the substitution of credit. If we were once to resort to such a measure, it would make all foreigners afraid to trust their money in our hands. Admitting that we might lay our hands upon fifteen or twenty millions of dollars, and supposing (a supposition hardly possible, for satisfaction for private debts, when national differences are settled, is generally insisted on) that no restitution was in fact to be required upon the final adjustment for what was actually recovered or lost in consequence of such an act, the loss of credit, and consequent injuries that would arise, would eventually subject us to losses to ten times the amount, and we should literally fulfil the old proverb of a "penny wise and a pound foolish." The consequences of such a measure would be ruinous to our most enterprising, promising young men, the rising hopes of our country, most of whom begin the world with little more than abilities to do business, and a fair character, credit is ready money to them, it is their stock in trade, and puts them upon an equal footing with the great capitalist. For the truth of this remark, he requested every one to take a view of the men of business and property, advanced to or beyond middle age, and see if a great proportion of them are not of that description. This measure once adopted, would throw the business almost entirely into the hands of moneyed men, who could pay down. Credit, it is true, is of no use—nay, it is an injury to a spendthrift, because he would abuse it, so he would money or other property; but to a prudent or wise man credit is of vast importance. He could not, he said, see the force of the objection against this article, because it thwarts a resolution that had been laid on the table by an individual member. No vote of the House sanctioning that resolution was ever passed, and how it could be considered as the act or the opinion of the House, he could not see. He did not doubt the gentleman who brought it forward was actuated by the purest motives, but it never even had the consideration of the House, and cannot, therefore, be considered as containing the final opinion of the House, or any member in it.

He intended to have made some remarks in reply to the bugbears which have been raised up relative to old debts, but the gentleman from Mas-

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sachusetts had so fully answered that also, that he should add very little. No debt of that description, of any consequence, could be found North of the Potomac; the courts of law have always been open, and he could not entertain so disagreeable an opinion of the people further South, as to suppose that in 1775 they had anticipated more than one, or, at most, two years' crops; if not, deduct the four classes mentioned by Mr. JEFFERSON, and part of the other class, also, which will not come under this Treaty, viz: such as have been lost by the negligence of the creditors, and not by any legal impediments, and the sum cannot be large; but if the sum is large, so much the greater the evil, and so much the greater the necessity of getting rid of it; for it will be like an Achan in our camp, and will continually disturb, if not endanger our peace and tranquility. If we really mean to live together in harmony, let us settle this old score, and no longer have it as a subject of recrimination between the different parts of the Union that part of the Union we should suppose to have the greatest cause of dissatisfaction makes no complaint.

If this Treaty is rejected, what is to become of the Western posts? We cannot expect them to be delivered up; the period appointed for that purpose is just at hand—a period to which the people of the United States have looked forward with much solicitude. It had been represented ever since he had been in Congress, by the gentlemen who now oppose the Treaty, and seem to feel such a strange apathy on the subject, as a most important object; that to obtain the Western posts almost any sacrifice ought to be made; that without them we could not expect permanent peace with the Indians, or security to our frontier inhabitants, or the benefits of the Indian trade. And now that they are almost within our grasp, if we let them go, will not the people of the United States call us to a very severe account?

Before this step is taken, which seems to be contemplated by many, we ought to look to what may be its probable consequences. He did not himself believe that a rejection of the Treaty would bring on an immediate declaration of war, but he did believe it would lead to measures which must inevitably end in war. What he was about to say, were not mere words of a heated imagination; they were words of truth and soberness, and what, in his conscience, he believed would take place. It is a fact well known that the spoiliations, especially at the Eastward, have fallen principally upon underwriters and some of our most respectable merchants, who by a long course of honest industry, had acquired a handsome property. Many of these have claims for spoliation and property now at risk, to the amount of their whole fortunes. The only chance they have of a recovery or security for their property does, in their opinion, depend on the execution of this Treaty. What will be the situation of these people, if they are disappointed in this their only hope, and they are brought to realize the idea of seeing their families reduced to beggary, and poverty, staring them

in the face? Will they not be driven to a state of desperation? A situation like this would make a wise man mad. Can it reasonably be expected, that persons in this situation will sit down quietly under their losses, or that their fellow-citizens will quietly see them sacrificed, not to an important principle, but to a mere question of expediency? for the gentlemen admit, the vote of the House recognises the Treaty as far as it has proceeded, to be Constitutional, and that it may constitutionally be carried into effect. He was confident, he said, it would not be the case, and that no event which had ever taken place in America, would cause a more lively sensibility, or involve more serious consequences than a rejection of this Treaty. As to compensate the spoiliations out of the Treasury, the sufferers, after what has passed, can entertain little hopes of that, and when they find themselves abandoned by the Government, is there not danger of their resorting to first principles, of self-preservation and retaliation? He was surprised that gentlemen should not be of that opinion, who had heretofore, on that floor, painted in such strong language the impossibility of restraining the frontier inhabitants, who may have been robbed of a horse or other property, from pursuing and obtaining satisfaction, even at the risk of the peace of the Union, and that, too, before they had been refused, or had even applied to the constituted authorities for redress. It has been imagined by some, that the moderation and temper with which the sufferers have borne their losses, proceeded from their attachment to some foreign nations; but this is a very croneous, unfounded opinion. This moderation has proceeded entirely from a love to their own country, a regard to its peace and happiness, and a full confidence in, and reliance upon the constituted authorities, that they would pursue reasonable and proper measures for obtaining redress, and for more than two years have been looking up to the completion of this Treaty, as the only source from which they could expect indemnification. This appears from their petitions on the table, forwarded in a most deliberate manner, at the commencement of the session. He wished gentlemen would seriously reflect, what would be the situation of people despoiled of their property by foreign nations, and abandoned by their own Government. He had no doubt on his mind, but that they would seek redress from those from whom they had suffered, and on whom will this retaliation fall? Not on one nation only. We have suffered more or less from all the belligerent Powers, but principally from two nations—England and France. British cruizers have made a most wanton and unprovoked attack upon our commerce. It must be admitted, also, that our citizens have suffered great losses by the French. Many sufferers can produce a list of both British and French spoiliations. In support of what he had here asserted, he should refer to Mr. Randolph's official report, made when Secretary of State, on the 2d of March, 1794, in which he has given a most distressing and dark catalogue of the British spoiliations and injuries, but he says, also, relative to the French:;

"That their privateers harassed our trade no less than those of the British; that two of their ships of war had committed enormities on our vessels. That their Courts of Admiralty are guilty of equal oppression. That, besides these points of accusation, which are common to the French and British, the former have infringed the Treaty between the United States and them, by subjecting to seizure and condemnation our vessels trading with their enemies in merchandise, which their Treaty declares not to be contraband, and under circumstances not forbidden by the Law of Nations; that a very detrimental embargo had been laid upon large numbers of American vessels in the French ports. And that a contract with the French Government for coin, had been discharged in depreciated assignats."

This, Mr. H. said, was an occasion of such magnitude, that he felt himself obliged to speak out his sentiments with candor and firmness, in relation to all nations, as some gentlemen had undertaken to draw a comparison between different nations. We are Americans, and a neutral nation, and ought, therefore, to take American and neutral ground. The zeal, and he called it a laudable zeal, which the American people feel for the cause of liberty, had induced them to view with a partial eye the injuries we had received from France, considering her as having commenced her revolution in the cause of liberty, and to exaggerate those we had received from Britain. Some instances had fallen within his knowledge, in which the loudest clamor had been made about spoliations, where the captures were perfectly justifiable, and in perfect conformity to the Law of Nations. He hoped, he said, he should not be considered as unfriendly to France; it was far otherwise; he was her sincere friend, and wished well to that nation, and sincerely hoped that they would finally settle down in a free and happy Government. But what would be the end of their present conflict was beyond the power of human calculation to say. He did, however, he said, love his own country best, and as our liberty, peace, and happiness, was moored in a safe haven, he was not willing to embark them on board a ship still at sea, and no mortal could tell what storms or tempests might await her. He had no idea of embarking the Government and liberties of the people of the United States with those of France or any other nation. He wished them a safe passage, but he did not think it for the interest of the United States to become underwriters. He did not think there was any obligation of gratitude on the United States that required it; he did not think the French Republic had any claim of gratitude on the United States for the aid which was afforded in our Revolution, the nation, as such, had no hand or volition in that business; the Convention, and much to their honor be it spoken, have very candidly acknowledged it, and disavowed all claims on that ground. Our assistance was, in that case, derived from another quarter. Those who afforded it are now no more. And it was afforded, not out of friendship to us, or a regard to the cause of liberty, or to advance our prosperity, but to gratify national pride and

antipathy, and to humble and distress a proud and haughty neighbor, with whom, for many centuries past they have for a considerable part of the time been at war; they were, therefore, under as great obligations of gratitude to us, as we to them; for they never carried on a war more to their advantage with Great Britain, or made a more honorable peace, than that of 1783. Suppose that, instead of sending troops to our aid, France had hired them to Great Britain, as some European princes in fact did, to come over to cut our throats, would the Republic be willing, would she think it just, that she should be charged with the odium? If she makes the claim in one case, she must submit to the charge in the other. Where mutual engagements had been honestly discharged on both sides, he had never supposed there was any obligation of gratitude left.

He was greatly mortified to hear a gentleman from Virginia [Mr. GILES] declare in that House, that France had given us our independence; that we were indebted to her for our being admitted to deliberate as the Representatives of a free people. He should take the liberty to deny the assertion; we should have been no less free and independent if no nation afforded us their patronage. France never openly declared in our favor till after the capture of Burgoyne, and we had manifested to all the world that we should maintain our independence. He did not believe, he said, that the independence and freedom of America depended on the good or ill will of any nation on earth; he believed it depended solely on the will of the people of the United States. The same gentleman had said, this Treaty would give umbrage to France. He asked, why? Is there any stipulation in it contrary to the Treaty with France? It is not pretended. If there was, it could not be operative; but, out of an abundant caution, there is an express stipulation that it shall have no such operation. But, says the gentleman, it gives Great Britain the advantage in our ports which she did not before enjoy. Are we, then, reduced to that humble situation that we may not grant indulgence to a foreign nation, for the purpose of obtaining advantage to ourselves, because such a nation is at war with France, without asking the consent of France? This would be colonizing of us in good earnest. Why so scrupulous on this head? Has France been so in regard to our Treaty with them? Mr. Randolph states, that they have made very free with it indeed. Have they consulted us relative to the Treaties they have made with several of the Kings of Europe? Could they expect that we should consult them? Where does the gentleman get his information that France will take umbrage? Have they remonstrated? He had heard of no such thing. He had heard, indeed, that some Americans in France, lighted, no doubt, with the flame which had been kindled in this country, had attempted to stir up some uneasiness in that, but the Frenchmen were perfectly easy and unconcerned on that head. They are too magnanimous a nation to take offence at our securing advantages to ourselves, by granting to other na-

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tions nothing but what we were free by our Treaties and the Law of Nations to grant; neither is such conduct improper, unless we mean to become parties in the war, which the sober, thinking part of that nation do not wish. And to us, it would be inevitable ruin. He was, he said, for a faithful observance of our Treaty with France, and for affording them all the aid we could, consistently with a fair and impartial observance of our neutrality; and, in that way, we should do them more good than by becoming parties in the war, and ourselves no injury.

Mr. HILLHOUSE requested gentlemen to pause a moment, and reflect what will be our situation if this Treaty is rejected. The peace of 1783 is agreed on both sides to have been infringed, since that Great Britain has committed depredations on our commerce to an immense amount. Is it supposed that all this matter can go off without any noise or combustion? As to treating again, no one can suppose that we could do it to any advantage, after such rejection. What may Great Britain expect, if we will not settle our differences by negotiation? Will she not expect that we shall resort to more violent measures—such as reprisal, sequestration, or stopping of intercourse? And to guard herself against such measures, may we not expect she will lay her hand upon all our property on the ocean? He said he looked upon such events as the natural consequences of our rejecting the Treaty. What may we expect will be the conduct of our own citizens? Will they tamely submit to be robbed of their property, when they lose all hope of aid or protection from the Government? They will not; they will defend it even to the shedding of blood; and not only so, but they will also take every opportunity they have to make reprisal for the property they have already lost upon those who did them the injury, whether they belong to one nation or another. What, he asked, could be the end of all these things but war?

It is an easy matter, he said, to start objections to any Treaty. The very nature of Treaties is such, that we must expect stipulation on both sides; and if one side only is viewed many objections will appear. There is not one Treaty in our code which may not be objected to in this way, that lately negotiated with Spain not excepted. He gave, he said, that Treaty his most cordial approbation, because it secured to our Western brethren the free navigation of the Mississippi, gave them a market for their produce, and would greatly raise the value of their lands. But the fifth article of that Treaty is vastly objectionable, for we are bound, at all events, to restrain our Indians from making war on the Spaniards. We know, from sad experience, how difficult it is to restrain our frontier people, living within the reach, and under the control, of our laws, from committing acts of aggression upon the Indians, which readily kindle up an Indian war. Is it not, then, a serious business to take upon ourselves the risk of an Indian war, from the indiscretion of the Spaniards, who are not under our authority or control, or within the reach of our laws?

Such an alliance, provided we had no sufficient force to cope with the Indian tribes, might be important; but the evils of Indian wars do not arise so much from the force the Indians are able to bring against us, or our inability to resist it, as from the distress they bring upon our frontier inhabitants, and the expense thereby occasioned, neither of which evils will be much, if any, lessened by this article in the Treaty, whereas the chance of Indian wars will be nearly doubled. That part of the 16th article of the Spanish Treaty which authorizes the cargoes of trading vessels to be taken out at sea, by a ship-of-war or squadron which may be in want from a storm, or other accident, giving a receipt only, which is afterwards to entitle the party to payment, is more objectionable than any article in the British Treaty. In this way, a vessel may be disappointed of her return cargo, having nothing to purchase with, and be obliged to seek payment in the Spanish Court. This is subjecting trade to an embarrassment to which it is not liable by the Law of Nations, and it is surprising that this article in the Spanish Treaty should have passed unnoticed, and so much stress should have been laid on the provision article in the British Treaty, which lessens and restrains the embarrassment to which trade, by the Law of Nations, would be liable. By the Spanish Treaty, we are not admitted to any trade with their islands or colonies, not even where they border upon us. Many other articles of that Treaty are liable to the same objections that have been made to the British Treaty; but he should take up no further time in remarking upon them, but as the gentlemen from one part of the Union had cheerfully given up their objections to the Spanish Treaty, because it accommodates their Western brethren, he hoped, and had almost said, depended upon it, that they would give up their objections (which they admitted to be grounded merely on expedients) to the British Treaty, which, to another part of the Union is of immense and incalculable importance. He hoped that, on this occasion, it would be remembered that we were Americans; he hoped all would harmonize, and unite as a band of brothers. This, said Mr. H., and this only, was wanting to make America the paradise of the world; this would carry our present unexampled prosperity to a pitch of glory and happiness hitherto unknown on this globe.

At this point the Committee rose, and had leave to sit again.

The House then resolved itself into a Committee of the Whole, first, on the bill for carrying into effect the Treaty with Spain, and afterwards on that for carrying into effect the Treaty with the Indian tribes Northwest of the river Ohio, which, having gone through, the House took them into consideration, and ordered them to be engrossed and read a third time to-morrow.

WEDNESDAY, April 20.

The bills for making appropriations for defraying the expenses which may arise in carrying into

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effect the Treaties lately concluded between the United States and the King of Spain, and with certain Indian tribes Northwest of the river Ohio, were read a third time and passed. The first blank in the former, for defraying the expenses according to an estimate, was filled up with \$18,683, and the allowance for Commissioners with \$2,000. The cost of the transportation and payment of the stipulations to the Indians, in the latter bill, was filled up with \$1,500.

Mr. HENDERSON moved that the resolution which he yesterday laid upon the table, respecting the disposal of lands reserved for the use of Government, be taken up. It was taken up accordingly, and referred to a committee of three members.

A message from the Senate informed the House that the Senate have passed the bill, entitled 'An act for the relief and protection of American seamen,' with several amendments, to which they desire the concurrence of this House.

Mr. HILLHOUSE, from the committee appointed, presented, according to order, a bill making an appropriation for defraying the expenses which may arise in carrying into effect the Treaty made between the United States and the Dey and Regency of Algiers; which was read twice and committed.

TREATY WITH GREAT BRITAIN.

The House then resolved itself into a Committee of the Whole on the state of the Union, and the resolution for carrying the British Treaty into effect, being under consideration,

Mr. HILLHOUSE finished his observations in favor of the resolution, as given in full in preceding pages; when

Mr. COOPER said, he rose with reluctance to speak on a subject that had already occupied so much of the time of the House, and he thought had been so ably managed in all points; yet, situated as he was, and representing, as he did, that country bordering on Canada, from Presqu' Isle, on Lake Erie, to Lake St. Francis, a distance of more than three hundred miles; and the very advantageous point of view in which the trade of that country is held, not only by his constituents, but by the inhabitants of Albany and Schenectady, and several other trading towns on the Hudson river, seemed to put him in such a situation that it would be criminal in him to be silent on a subject so interesting to the people of the State of New York. Nor is it necessary to say much to show the expediency of granting such supplies as are proper to set in motion the British Treaty, as far as it relates to the interest of the State of New York, and to that alone he should confine his observations.

It has been stated to me, said Mr. C., by our worthy negotiator of the Indian Treaty, that a more easy and advantageous Treaty was obtained with the Indian tribes, on account of the time being ascertained with certainty in the British Treaty for the delivery of the Western posts to the American nation; and it is reasonable to calculate, that that circumstance had a powerful influ-

ence over their actions; for, if they were uncovered by those posts, being placed in the possession of the people with whom they were at war, and that they could be no longer sheltered on the margin of our country by their old friends, the British; it became their best policy to throw themselves into the arms of the United States, and they did so. But what is to follow? Why, if this House, by a cool, deliberate act, refuses or neglects to take possession of those invaluable stands at the time ascertained in the Treaty, it again forms a plausible pretence for that strong and haughty nation to withhold from us that trade, which is not only our right, but which nature, in the distribution of her waters, hath secured to the commerce of the State of New York. And can or will any of its Representatives exclude its citizens from the enjoyment of this natural advantage? They must not do this thing. For, should the British be left in possession of those posts, is it not fair to expect that they will influence the Indians to become again troublesome on our frontiers? That they have this influence, if left in possession of those posts, will not be denied; that they are not too good to do this thing, will be believed; that they are bold enough to attempt it, is well known; and they will have this solid argument to show as cause why this step ought to be taken by them, they might tell us, and tell us truly, too, that we have broken our faith both with them and the Indian tribes, and that the fault is our own; and thus, instead of the great advantages resulting from the Western trade, so long and so eagerly sought after by the citizens of our State, they will have presented to their view a prospect of war on our frontiers, and the present unexampled prosperity of the Western district frustrated. I am not unmindful, Mr. Chairman, said Mr. C., that the naming of a district has a local sound in the council of the nation; yet, when this House considers that the district I mention is more than half the State of New York, and that it is the very country that must gain by a restoration of the posts, or be destroyed by an Indian war, supported by Canada, they will see I have solid cause to be anxious about the result of this measure. It now becomes necessary that I should take up that part of the argument, as stated by a gentleman from Virginia, [Mr. MADISON] which relates to the State of New York. He intimated that the trade on those lakes would not be any advantage to our American merchants, because goods were imported through Canada duty free, and with us there was from seven to fifteen per cent. duty. This statement is not correct. There are duties and excises in Canada, which, together with the high insurance on vessels sailing up the river St. Lawrence, make it equal to ours. But this and all drawbacks on our part, we will put out of the question; for, I am told, and I think it is a certain fact, that each hundred weight of goods which arrives at Niagara, by way of Quebec, costs five pounds for the carriage only; by the way of the Mohawk, twenty-four shillings is a fair price. This difference, alone, is a handsome profit, and a consideration that will always secure that trade

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to our merchants. For their British traders will get their supplies from that market, which is the cheapest and safest. This is as certain as that men will follow that which is most for their interest.

When New York and Canada were both under the British Government, the country of Upper Canada was supplied by way of the Hudson—the King's stores were all sent by that route, and was there no solid cause for this arrangement? There certainly was, and gentlemen who controvert this doctrine must produce better evidence than the fact itself. So jealous are the British of our advantage in the trade of that country, that they keep a garrison at the outlet of the Oswego river, to prevent our traders passing with merchandise on to those waters. But, if the gentleman's own doctrine is sound, that no advantage can arise to us from the trade of that country, why does he complain of want of reciprocity in the Treaty, by not having damages for detaining the posts? Surely, if the trade is of no advantage to us, the posts are of no use, and no damages are due, but I deny both the one and the other. The commerce of that country will fall to us; and the damage we have sustained by the detention of the posts is great. The British say it is our fault. Had we complied with the Treaty of 1783, they would, and here the dispute is at an issue.

How this is, said Mr. C., I shall not undertake to say; but this I am very clear in, that we had better treat with them than fight them. We have thought this the most prudent mode of conduct with the Algerines and other nations, and we ought to think so for several years to come, with all nations; for time to us is every thing. That gentleman's plan is to destroy this Treaty, and go into new negotiation; my plan is to secure this, and if necessary, negotiate farther. Should this Treaty be destroyed, what prospect have we of obtaining another? None; and what will follow? Why our commerce will be cut up, of course our revenue destroyed, our farmers impoverished, and on them we must cause to be assessed direct taxes to create supplies, or the Government must fall to pieces, and who is it that will stretch forth his arm to do this thing? Or who is it that will vouch that a non-compliance with the British Treaty will not produce all those evils?

Mr. PAGE said, that he had heard no arguments in favor of the resolution before the Committee, but such as might be used to influence a vote at any other time, and upon almost any occasion; for we are told that war, or popular discontent, and great inconvenience and distress to merchants, underwriters, and others, will be the consequence of its rejection. If such threats can influence this House upon the present occasion, an unhappy and mortifying comparison may be made between the Congress of 1776, and that of the present day. They despised and encountered the dangers of war actually commenced. He wished, when members were disposed to mention their fears of such dangers, they would first clear the

galleries; for such communications ought to be secret. Did members really believe that Great Britain will declare war against the United States, if this House should refuse to be accessory to the violation of the Constitution, the destruction of their own rights, of the right of neutral nations, and of the interests of their constituents? If they do believe this, is their belief founded on conjecture alone, or on the negotiator's declaration, that the British Ministers threatened him with war, declaring that war should be the consequence of a rejection of the Treaty? If the latter be the case, and nothing less can justify such repeated assertion that war will be the consequence of a refusal to carry the Treaty into effect, the Treaty ought to be deemed null and void on account of that threat; and if the former, they may be assured that they are mistaken, and that Britain is not so frantic as to engage in a war with the United States upon such slight grounds. The citizens of the United States wish not to be at war with the British nation; nor can the people of Britain desire a war with them. Both must wish for peace, and a full commercial intercourse upon liberal terms; and as the Executive authority of both countries are well disposed to each other, and have, as far as in their power, carried the Treaty into execution, what reason can be assigned why we should be involved in a war? It has been said that the United States will be obliged to declare war, on account of the British refusal (which may be expected) to deliver up the posts, and to make compensation for spoiliations of our commerce; but I see no necessity for such conduct. For my part, should Britain never give up the posts, I would not vote for war, nor be at the expense of a single regiment to take them; nor would I go to war to recover losses sustained by spoiliations. For, if we reject the resolution before you, sir, we may be at liberty to pass such a bill as we passed in the year 1794, by a majority of twenty-four members, and for which thirteen Senators then voted; and should the Senate concur with us in passing it, we might use it more effectually than a declaration of war for the recovery of the posts, and reparation of wrongs. As to war, as my colleague yesterday said, I have reason to deprecate it, for the sake of my constituents, and for my own sake; for I have experienced enough of its evils; but I cannot think that I ought to sacrifice their dearest interests merely from an apprehension of the dangers of war. The arguments, therefore, which I have heard, cannot induce me to vote for the resolution before you. Indeed, sir, I must vote against it; because I think that the Treaty is unconstitutional and pernicious; and even if it were constitutional in every respect, and as advantageous to the United States as it has been represented, I should think it impolitic and dishonorable in this House to lend its aid to carry it into effect during the present war, and a continuance of the British depredations on our commerce, and impressment of our seamen. The Treaty appears to me unconstitutional, because it takes from Congress that very power with which

it was invested by the Constitution, and to invest them with which, the Constitution itself was expressly formed; a power which I think should be held as precious and unalienable. I mean the power of regulating the commerce of the United States with Great Britain; so as to induce her to fulfil all the conditions of the Treaty of Peace, and to put the trade of the United States with her upon a footing of reciprocity. It appears also unconstitutional, because it violates a solemn act of Congress passed in conformity to the express words, and I may say, in obedience to the injunction of the spirit of the Constitution: I mean the act for establishing an uniform rule of naturalization, and this violation, too, operates partially, and in favor of British subjects alone. It is moreover unconstitutional, because it interferes with the authority of the Judiciary, by establishing a Court of Commissioners, a kind of supreme court of appeals, within the United States, with powers to proceed, unknown to our laws; with temptations to defendants to make no defence; with a right to bind the United States to pay debts which they owe not, and to any extent or amount which that Court may think fit to decree; and it is unconstitutional, because it authorizes the PRESIDENT to create certain offices, and annex salaries thereto. In these instances, at least, I think the Treaty unconstitutional; for I think that Congress cannot authorize the PRESIDENT to do away the power of Congress or to establish a court of appeals superior to the Federal Supreme Court; that, whatever would be unconstitutional, if done by Congress, cannot be Constitutional if done by the PRESIDENT and British King. But, sir, if the Treaty were not unconstitutional, that is, if the PRESIDENT and Senate had a right to deprive Congress of the power it claims, and to interfere with the Judiciary, yet the exercise of that right in the present case, ought to be viewed as so pernicious to the United States as to render the Treaty null and void; or at least, it ought to be viewed as an argument of sufficient weight to induce this House to refuse their aid towards carrying this Treaty into operation. And were it even Constitutional and advantageous to the United States in every article, yet, as it acquiesces in a violation of the rights of neutral nations in favor of Great Britain, and in some instances, to such a degree as to be thought even by the PRESIDENT himself, to afford just ground for discontent on the part of our allies, it will be dishonorable and highly impolitic in this House to be in any manner instrumental in carrying it into effect. As it has not been in the power of the United States to assist their Republican allies, when fighting in fact their battles, the least they can do, or the least that the world and those allies can expect from them, must be, that they will not put the enemies of those allies into a better condition than they were, by making Treaties with them during the present war.

We are told, indeed, by a member from Connecticut [Mr. HULLHOUSE] that the French Republic is not displeased with the Treaty, or that they would have remonstrated against it; but in the

same breath he told us that such a remonstrance would have been indecent. Whether the Republic has remonstrated or not, is immaterial: we know that the French nation has been induced to believe that the Government or the Executive of the United States was unfriendly to their Government, and that the citizens at large were friendly, and warmly attached to it and to their citizens. They may, therefore, if they have not remonstrated, be supposed to be willing to wait, with a reliance on the Representatives of the people of the United States, believing that they will never consent to carry the Treaty into effect during the war. It must be impolitic and dangerous to remove the favorable opinion the French nation entertains of our friendship. Let us establish that good opinion by rejecting the resolution before us, and let us hope to undeceive them respecting our Executive. I hope they will believe, as I have endeavored to induce some of my friends to believe, that the negotiator was led to fear that our affairs in the United States were in a critical situation; and that those of our allies though apparently flourishing, were on the brink of destruction; he might have been let into the secret plots against the Republic, and have concluded that the Treaty alone could prevent our being involved in war with Britain, after the success of the combined Powers against our Republican allies; that the Senate, when they advised the ratification, might possibly be under a similar impression, and that their advice, and circumstances unknown, might induce the PRESIDENT to think himself bound to ratify the Treaty. But, sir, this House knows that these fears were groundless; that the enemies of France have been repulsed, and totally disappointed in their hopes of conquest, and that many of them have made peace with them, and we may hope that even Britain will soon follow their example. We know, too, that the Treaty is not such an one as the PRESIDENT instructed his Envoy to make; therefore this House may, and ought to refuse to be instrumental in carrying it into effect. This House ought not to suffer the French Republic to charge it with lending its aid to carry into effect a Treaty which so many of its constituents dislike, and of which the PRESIDENT himself disapproved. If war can be produced by rejecting the Treaty, I should suppose it must be by adopting it; for France had, according to the Laws of Nations, a right to declare war against the United States for violating its neutrality, and for its partiality to Great Britain. But, I hope this House will be, as the member from Connecticut [Mr. HULLHOUSE] said, uninfluenced by fears of war from any quarter; and consider only what the interest and honor of the United States require. They will think with me, I trust, that it is our interest to secure the good will and friendship of twenty-five millions of Republican allies; to avoid the contempt of neutral nations, and to endeavor amicably, by a new negotiation, to adjust all differences with Great Britain, and not to patch them up, so as to engender fresh disputes, and a breach of the Treaty, with which no one

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has ever been perfectly satisfied. I was sorry to hear a member from New York, [Mr. COOPER] whilst he was urging the necessity of ratifying and adopting the Treaty say, in fact, that we had better put up with insults now, and be revenged hereafter; that within twenty years we might defy Britain and dictate terms to her. No, sir, let us deal honestly and candidly; let us state our objections to the Treaty, and I will venture to say, that there is not an honest, candid man in Great Britain who will not applaud us for it. The President will be able to give a full and satisfactory reason why the Treaty cannot be carried into effect, and either another which will afford mutual satisfaction will be made; or, we shall without a Treaty be left at liberty to make use of those powers with which the Constitution invested us, for the very purpose of bringing Great Britain to reasonable terms, as to commercial intercourse, and as to a fulfilment of the Treaty of Peace.

We are told, indeed, that the Treaty before us gives up the posts; but, sir, I may say it gives the United States the mere walls or works and fortifications, and retains the lands around them to an undefined extent, besides yielding to British subjects perhaps millions of acres which they may claim under old grants. I look upon this circumstance, sir, more like a capitulation on the part of our negotiator, than a fulfilment of the article in the Treaty of Peace; and that this circumstance, added to others in the present Treaty, would have rendered a capitulation upon such terms dishonorable, unless an assault and destruction could be proved inevitable. In short, sir, said Mr. P., unless it can be proved safe and honorable, and not a violation of our neutrality, for this House to be accessary to carrying the Treaty into effect, I cannot vote for the resolution before you, even should it be proved that the Treaty is Constitutional, and it affords the advantages with which some gentleman suppose it abounds. I shall, therefore, vote against the resolution now before you; and, as far as I can see at present, shall view the one proposed by the member from Pennsylvania, [Mr. MACLAY] as a substitute for this, as far preferable to it, although that does not go as far as I could wish; but that would be safe and honorable, as it puts off the question till we may be better informed of the reasons which led to the ratification of the Treaty by the President, and till possibly the conduct of Great Britain may be such as to render our approbation and support of the Treaty not inconsistent with the honor of the United States. For my part, sir, I shall vote against the resolution before you at all events, for the reasons which I have given, and because I do think it high time to let Great Britain know that she ought to comply with the Treaty of Peace before we will consent to any new Treaty with her; and that she must suffer us to enjoy the rights of neutral nations, and not attempt to force us into a violation of them with respect to our allies; and this sentiment I am sure will be applauded by the world, and by every candid man in Great Britain.

Mr. BOURNE thought it would be an easy matter to convince the gentleman last up that his principal objections against the Treaty then before them were unfounded. He believed the gentleman was actuated by the best motives, but, if he were to review his objections, he was of opinion they would appear to him ill-founded.

The gentleman objected to the Treaty as unconstitutional, because it interfered with the judicial authority of the United States. The appointment of Commissioners to settle differences betwixt the citizens of the two countries was what he had alluded to. But had not the gentleman assented to carry into effect the Spanish Treaty, which provided for the appointment of Commissioners of a similar kind? Certainly he must recollect that there was a provision for such an appointment of Commissioners, with the like authority and powers; and surely the word "British" could not alter the nature of the thing so much as to render what was perfectly agreeable in a Spanish Treaty, and upon which the yeas had been unanimously given, when applied to the British Treaty altogether objectionable; or had the gentleman received some new light since he gave his vote?

But he did not wish to rest the matter there. He would inquire for what those Commissioners were appointed? Was it to decide disputes between individuals? No; it was to settle claims and differences betwixt the two nations. Did this encroach upon the Judicial authority of this country? Certainly not. For the Judicial authority is incompetent to take cognizance of controversies between independent nations. The gentleman had stated the Treaty to be unconstitutional upon another ground, viz: that it interfered with the powers of Congress with respect to naturalization. Let us examine, said he, what this interference is. The people who live in these posts are to be suffered to remain there, and in one year to declare whether they will become citizens of the United States or remain British subjects. If they became citizens it was well, and he believed the Treaty-making power to be fully competent to make them so; but if not, the Congress might accomplish it by carrying the Treaty into effect; if not, they remained as other foreigners, owing a temporary allegiance to the Government of this country.

Another object had been stated, which, he thought, had been fully answered by the gentleman from Connecticut, [Mr. HULLHOUSE,] viz: that the Treaty before them was calculated to excite a hostile disposition on the part of France towards this country. He himself saw no ground for this disposition. Had this country violated the Treaty with France? No; and certainly when they were treating with one nation, they were not particularly obliged to consult the interests of another. But the gentleman must know that the Treaty was particularly delicate on this subject, and contained an express exception in favor of existing Treaties between the United States and other nations.

These were the material objections which the

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gentleman last up had adduced against the Treaty, and yet he had said they were sufficient to influence his vote against carrying it into effect. He did not expect that after the declaration the House had made relative to their right of deliberating on the expediency of carrying Treaties into effect, that, when this Treaty should come before them, they were to have gone into the same examination of it as if it were in the first state of negotiation, and the British Minister was before them endeavoring to settle the commerce and adjust the differences between the two countries. He expected a different line of proceeding; especially when he heard the gentleman from Virginia [Mr. MADISON] say, that it would be with great reluctance that the House of Representatives would refuse to carry into effect a Treaty, after their Minister had negotiated it, two-thirds of the Senate had approved it, and the PRESIDENT had ratified and promulgated it as the law of the land. He had said it would be an extreme case which would justify such a refusal. Yet they find the British Treaty taken up as scrupulously as though it were in the first stages of its negotiation. He did not think the conduct of gentlemen was justifiable in doing this; they should come forward at once, and show the instrument to be unconstitutional, or as necessarily sacrificing the most essential interests of the country, if they meant to destroy it.

He would not trespass on the patience of the Committee, by going into a detail relative to the various articles of the Treaty. A number of objections had been urged against the instrument, but he thought they had been completely answered. A gentleman from Virginia [Mr. MADISON] had expressed his surprise that any branch of the Government should have shown a disposition to agree to a Treaty which did not admit their vessels to go to the West Indies, as that was held up as a principal object of any Treaty with Great Britain. He would acknowledge that a free intercourse with the West Indies would be a very desirable thing, and he expected that the Treaty would have contained an article of this kind. It was well known that an article permitting a restricted intercourse with the West Indies was agreed to, but it had been rejected by the Senate, as unworthy of being accepted. But as we know that further negotiations on the subject are yet on foot, we have reason to believe that a more favorable article will be obtained. If we should fail of this, when the commercial part of the present Treaty expires, that is, two years after the present war, he should be of opinion that it would not be prudent to renew the Treaty without admitting the vessels of the United States to the British West Indies on liberal terms. They had now, indeed, admission to the West Indies, and would have it during the present war, to a greater extent than any Treaty would be likely to give them.

It had been asserted that the article giving our merchants the privilege of trading to the British East Indies, would be attended with no advantages more than they before possessed; but, as far as he could learn, the merchants were generally of a

different opinion; they think it an advantageous article, as it is a trade which they are every day extending, and to which they have only a precarious right without the Treaty. Previous to the present Treaty, it was in the power of the British Government, and, he believed, of the India Company, to deprive them of the trade whenever they pleased; but by the Treaty they had secured a right to it—a right not granted by Treaty to any other nation, and denied even to British subjects. It was said that our merchants were restricted from the East India coasting trade. He did not think there was anything unreasonable in this, as the British were restricted from the coasting trade of this country. It was also said that the merchants of the United States were restricted from carrying the goods which they brought from the British East Indies to any part of the world except the United States. The truth is, we are restricted by the Treaty to bring them to America. He did not think it was more than might have been expected that this restriction would have been required. Was it supposed that we would have been permitted to become competitors with the British merchants in their own market? It could not. They have already allowed to American citizens what they refuse to their own subjects. This was a concession on the part of the British, for which no equivalent was made in a commercial point of view.

It was said that they had tied themselves from laying any additional imposts upon goods imported in British vessels. Was it in contemplation to impose any higher duties upon goods imported into this country? Was it not further believed that the duties were at their full height, and that any promised increase would rather lower than augment the revenue? What sacrifice, then, was this, and which was to remain only for two years after the war? It was said that the British had a right to impose countervailing duties on our produce and vessels: she possessed no more right in that respect than before the negotiating of the Treaty: yet this was made a formidable objection. In remarking upon the East India trade, when he mentioned that their merchants were restricted from the coasting trade, the expression was incorrect; we are not expressly restricted, but the article merely says it is not to be construed as an allowance or permission to carry on the coasting trade. We may still be indulged in it, if the Company will permit it. It had been said that the merchants of the United States would be deprived of the freights of the produce of the British East Indies for the Canton trade; but he believed there were other parts of the East Indies, adjacent to the British settlements, from which they might purchase the same articles, and obtain great freight. Indeed, it appeared to him that the East India trade was an advantageous one, and a trade which the British had never given to any other nation, and denied to her own subjects, unless belonging to the East India Company. But if some of the commercial regulations were not perfectly reciprocal or unexceptionable, their duration was short, and it was better to give them sanction than

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to risk the consequences of a refusal to carry them into effect. If there were some sacrifice made, would it not be their duty to submit to these sacrifices rather than commit the national character? For, were the Treaty not carried into effect, he should consider it as a great stain upon the national character. He viewed the Treaty as a national compact, and a refusal of it, a violation of it. He would ask, if ever there was an instance known of a Treaty being made by the proper authority in any country, and instantly violated on the ground of wanting reciprocity? Indeed, one instance of the sort had been adduced from English history, at a time of great faction and disorder. Would it not be a violation of the Treaty not to carry it into effect? Gentlemen had agreed that the Treaty was the law of the land. If so it was binding upon the people of the United States; and if binding upon the people, it was also binding upon that House; therefore, he trusted they should not so far degrade the national character as to say that such a Treaty should not be carried into effect, because it was not so good a bargain as we ought to have made. Yet he believed there were circumstances that would justify the violation of a Treaty, when it had even progressed as far as the Treaty before them. It might be so unequal and so extremely mischievous, hazarding the safety and existence of the Republic, as to justify its infraction; but he did not think there was any such ground in the present case. It was said that the British had, since negotiating the Treaty, captured our vessels and impressed our seamen; but would this be a justifiable cause of infracting the Treaty? They did not know upon what ground the British had made those captures; he believed some of the vessels were captured agreeably to the Laws of Nations and others merely from the predatory conduct of the commanders of British ships-of-war and privateers. But the way to redress was, to fulfil the Treaty with good faith, and then remonstrate with the British Government for these violations of our neutral rights. This would be honorable conduct, the most likely to get redress, and to prevent a repetition of such abuses. With respect to the capture of a vessel which had been frequently mentioned, as being lately taken upon our coast, within our territorial jurisdiction, he had learned that the vessel was laden with French property to a considerable amount, and captured at sea. Yet this capture was made a theme of declamation in that House, though the owner and persons concerned were perfectly satisfied of the justice of the capture. He did not mean to justify the conduct of the British; he believed they had violated the Laws of Nations towards us, and that most of their captures had no justification like the one just mentioned. He believed their conduct would have justified war, but he believed it was the interest of the United States to treat, and not go to war. He had no doubt but compensation would be made to their merchants from the British treasury, for all property taken contrary to the Law of Nations. He thought Great Britain had ceded a point in agreeing to the appointment of Commissioners, who should

even judge over their Supreme Courts of Admiralty. He thought there was a better chance of getting recompense in this way, than by refusing to carry the Treaty into effect; for it was in vain to expect further negotiation. It was not likely that Great Britain would listen to another negotiator; nay, they would be apt to treat a second negotiation with contempt. He would not say that Great Britain would be disposed to make war upon us if we should reject the Treaty. She might be content with the present state of things. If she was suffered to retain the posts and the effects of the spoiliations, he supposed she would be satisfied, at least for a time. But would it be either for the honor or the advantage of this country, that she should keep garrisons within our territory and in the neighborhood of the Indians, ready to excite them to make war upon us whenever it pleased her? Or would the merchants of the United States submit to have five millions of their property withheld from them? Should this country withdraw all negotiation, and say we were content under such injurious and dishonorable circumstances? He believed they would not. And if not, what was to be done? They must either submit or recur to the dernier resort. Was there a prospect of getting compensation in this way? He did not wish to speak in discouraging terms of the strength and resources of this country, but if they were to go to war, let the contest be long or short, the end must be negotiation. Would they, at the end of the war, get payment for spoiliations? or would the amount of the spoiliations be equal to the cost they should be put to? Was it certain that they should then be able to get so good a bargain as the one before them? By it the spoiliations are to be made good, without the expense of war. With respect to the negroes, it seems to be decided that the British would not agree to pay for them, as they contended they had not agreed to restore them.

It was understood Mr. JAY had insisted on a different construction; but the British Ministry would not submit to it; and it seems the British interpretation of the Treaty of peace in this respect is supported by some of our most enlightened citizens. And it is thought not supposable that, in a new negotiation, they would be disposed to yield ground they have uniformly contended for. He would not dwell on the sequestration and other articles in detail; they had been ably defended by others who had preceded him in the debate. On the whole, it appeared to him that the Treaty was an equal one; and if not, that they could get a better by further negotiation; its continuation, in respect to commerce, was only for two years after the present war. Besides, the constituted authorities had fully entered into and completed it. It was a national compact; they ought to obey it, and they were under every moral and political obligation to make appropriations to carry it into effect.

Mr. FINDLEY said he should not think it necessary to resume any of the arguments relative to a principle which had already been settled in that House; yet, he observed, that every gentleman

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who spoke on the subject seemed to argue what were the rights of that body upon the subject of Treaties, as if no question had already been had on the occasion.

It had been insisted upon, notwithstanding the decision which had been had, that a Treaty was a law when it came before that House, and they had no power but to appropriate to carry it into effect. He said this opinion was directly contrary to the opinion held on the Constitution at the time it was accepted in Pennsylvania. Moral discretion, he said, was necessary to be exercised in every decision of that House, except the Constitution had prescribed to them some positive rule of action. In ratifying the Constitution in the State of Pennsylvania, this was the understanding of it. The minority in the Convention did not wish so much power placed in the Executive, and he appealed to gentlemen in that Convention, if this was not the doctrine asserted by the majority in answer to the objections of the minority. Indeed, if they were not to have exercised a moral obligation upon the Treaties, the Constitution would have expressly said so, as in the case of the PRESIDENT's salary, the pay of the Judges, Army appropriations, &c. If they had not been limited in these articles by the Constitution, they certainly would have had the power to have changed them if they had thought proper.

But, passing over this consideration, there had been pretty large views taken of the manner in which the Treaty came before them. The gentlemen from New York and Virginia had entered into the subject. He must beg leave to differ from the gentleman from New York as to the matter of fact relative to that House in the concerns of Government two years ago. He had no apprehension at the time the Envoy was sent to Britain to negotiate a Treaty, that Britain would have commenced a war if that measure had not been adopted; so far from it, that a majority of that House thought differently. He had no doubt that war, and the destruction of liberty altogether, had been meditated by Great Britain; but before the negotiation was commenced, circumstances occurred which caused her to give up this extravagant design. Before the negotiator was appointed, it is well known that the plundering Order of the 6th November was revoked. The gentleman from Virginia [Mr. GILES] had given a very good narrative of events in Europe, which fully showed the cause of this change of conduct. That gentleman had also gone through the Treaty, article by article, in a manner so much to his satisfaction, that he should not attempt to follow him. Before the negotiation took place, we had suffered considerably by British spoiliations, and that House thought of various means to make it the interest of that Power not to continue their depredations. First one plan was proposed and then another. It need not be mentioned that amongst these was the plan of sequestration, the future power of doing which this Treaty proposed to deprive them of. It was discussed in the House, but no question taken on it, to show that negotiation was not thought necessary. He mentioned

a conversation which had taken place betwixt a gentleman then in the Cabinet (now no more) and himself, which confirmed his opinion of the propriety of the measures. A bill for regulating commerce in such a manner as to make it the interest of Britain to refrain from injuring us, and redress the wrongs we had suffered by spoiliations, was agreed to by the House, but negatived in the Senate. So far from being then afraid of war, they were more and more convinced that it was in their power to make it the interest of Britain to refrain from their acts of violence towards us.

The gentleman from New York [Mr. WILLIAMS] spoke of the respectable character of the PRESIDENT and Senators who had approved of the Treaty; but he could not agree that that was proper argument for that House, merely on account of their wisdom and respectability; because, in order to give that argument fair play, it would be necessary, after displaying all the perfections of the PRESIDENT and Senate, to weigh the talents and virtues of all those who were opposed to, and in favor of the Treaty, and strike a balance betwixt them, which, it must be allowed, would be a somewhat tedious business. For it must be admitted that many illustrious men, who were distinguished for their understanding and early patriotism, had joined in condemning the Treaty before them. He should wish, therefore, to waive this as an argument.

There were many other arguments used which he thought unworthy of notice; amongst such was the prosperity of New York and the number of houses built there, mentioned by the gentleman from that State. He did not think the Spanish Treaty was interesting only to the people on the Mississippi, and did not like to hear such expressions as these: "You have sanctioned a Treaty for the people on the Mississippi, and will you not carry into effect one for New York?" He neither before nor since believed that one or other of the Treaties would apply specially to those places. Would the Spanish Treaty be of use only to the people living on the Mississippi? He might say it would raise the price of the lands they were about to dispose of. But would not New York enjoy advantages from the Mississippi trade? Surely it would; for it could not easily be conceived the quantity of European goods consumed in that country; and he apprehended that New York would stand the best chance of getting the trade from thence, if it possessed all the advantages which the gentleman described. It was well known, that whatever trade was carried on there, it must come through the Atlantic States, chiefly through New York or Philadelphia. He only mentioned this to show the absurdity of using such arguments. As far as he could judge the Spanish Treaty would be of service to the United States at large.

Whilst he was speaking upon this subject, it occurred to him what had fallen from the gentleman from Rhode Island, [Mr. BOURNE] in reply to the gentleman from Virginia, [Mr. PAGE,] with respect to the Commissioners appointed by the British Treaty. That gentleman charged his

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friend from Virginia with inconsistency, because he had voted for the Spanish Treaty, which has its Commissioners the same as the British. But though the Commissioners in the two Treaties for determining on the spoiliations were of the same kind, those appointed in consequence of the British Treaty for deciding on the debts due to the British merchants were of another description, and it was these he supposed the gentleman from Virginia intended. The subjects referred to their decision had either already been adjudged by our own Courts, or were subject to the final decision of the Supreme Court of the United States, of which it was declared in the Constitution that even Congress itself could only erect Courts inferior to it. The Treaty vesting the Commissioners with original and final powers in cases competent exclusively to the Supreme or Inferior Courts, has erected a Court superior to the Supreme Court. The spoiliations are not subject to the jurisdiction of our Courts, and are proper subjects for special Commissioners, and therefore no subject of complaint. He was not about to determine absolutely whether the office was unconstitutional or not; but if it was not, he knew not where to draw the line. But, while he would leave it to others to determine whether it was unconstitutional or not, he would give his opinion that it was certainly inexpedient. If there was security in conducting the inquiry, his objections would be less; but he knew no mode of settlement more insecure. The insecurity was also all on the side of the United States. It had been also said that there had been made bankrupts, whose cases would be attended with difficulty. The manner of taking testimony, as it had been described by the gentleman from Virginia, [Mr. NICHOLAS.] was certainly loose, and he had heard no one say it was not so. The bankrupt being a party in the decision, though not in the payment, might make his fortune by collusion with the British creditors.

He would take a glance at a few of the articles in the Treaty, and confine himself as much as possible to the observations which had not already been noticed, though he knew the difficulty of doing this. The Western posts, he said, were produced to balance every evil in the Treaty. The gentleman from Massachusetts, [Mr. GOODRUE,] who had certainly spoken most rationally upon the subject, dwelt upon the great commercial advantages of these posts. Commerce, Mr. F. said, was not the sole object which these posts were wanted to produce—it was peace, which they wished to be secured by them. If it was merely having these spots of earth, these forts, where was the difference to them whether the British had these posts or others a mile from them. Was there any reason to believe that the British would not continue to have as much influence as ever among the Indians? Was he to make a sacrifice for anything, it would be for the posts. They knew that the British had had emissaries there ready to do their purpose, who had influenced the shedding the blood of our people. Those who had instigated the Indians to make war upon them

would have the same means of influencing still. The gentleman from Massachusetts seemed to have in view, when speaking of these posts, the getting of money only. This he could not compare with the object he had in view, viz: peace on the frontier. Would not that nation, who subsidized almost all Europe, have it in her power, if she thought it her interest, to cramp or discourage our traders in that quarter, to raise up the Indians against them? Would any gentleman say they would not? It was not for any profit they reaped from it that the British held Canada; they had other views. For this reason, he did not put such value upon the Canada trade as to barter peace and security to obtain it. What he wanted was peace with the Indians; but while the McKees, the Girties, &c., continued with them, peace would be insecure. He had no idea of friendship from the British Government; he believed all such reliance would be ill-founded.

There had been a great deal said about the reimbursement of spoiliations, the payment of British debts, and recompense for the negroes. He had not an opportunity of hearing the whole or the observations of the gentleman from Connecticut, [Mr. HILLHOUSE,] being called out of the House on business; what he heard, he had heard with pleasure. That gentleman said, the claim for recompense for negroes was not well founded. He allowed that there was plausible ground for the assertion, and he had taken that ground; but he believed there was proof within reach that would prove the justice of the claim. He believed that when Mr. Laurens was released from the Tower of London he was employed in an embassy, and instructed to receive compensation for negroes. That the subject was then taken up, and that the negroes and book debts were considered as opposed to each other. If so, the gentleman's assertion must be unfounded. He believed the claim for recompense for negroes was as strong as that for the recovery of the British debts, and as equitable.

With respect to spoiliations, he presumed that they should get no greater amount than the Laws of Nations would entitle them to, though he had little faith in the British construction of that law, and did not wish to go to war for them. He did not know what the amount would be of the whole spoiliations committed; and if he did, he should have more difficulty to say what part of it was likely to be reimbursed by the Treaty. Nor did he know the amount of British debts to be paid. It might not, perhaps, be so great as had been represented; but, from what information he had received, he believed it would be much greater than the gentleman from Massachusetts [Mr. GOODRUE] had made it. He was informed of one house, out of the State of Virginia, which owed almost as large a sum as that gentleman had mentioned for the whole.

He had never heard before of a Legislature being laid under an obligation to pay the debts of individuals, agreeably to such a decision as is not regulated by the laws, nor adjudged by the Courts subject to which the debts had been contracted

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but by a mode of liquidation, as if we had no Courts of law. This he thought highly inexpedient, especially as no estimate could be made of the amount.

This was one weighty reason against carrying the Treaty into effect, though not exclusively of other reasons, perhaps a sufficient reason for rejecting it. He knew gentlemen said that they were obliged to pay these debts, be the amount what they may, as their payment had been prevented by legal impediments. These debts, however, would be greatly increased by the war-interest, if it were to be paid, and they could not reckon upon this not being the result. This probably would depend on which of the parties would have the choice of the fifth Commissioner.

With respect to the spoliation committed upon their merchants, he had felt much for them. He could not say what would be the amount of these; but he said there would be so much of the insurance to deduct from the amount as had been paid by the consumers in the price of the goods. As the British ought to make these losses good, this could argue no abatement in favor of that nation, that might be an argument in abatement of that claim if it was made against our own citizens.

In reference to sequestration, it having already been well explained, he should say but little. It was parting with the power, not for two years, but for ever. It was parting with a power which, by the terms of the Treaty, we could not recover even in the event of a war, and that with respect to a nation against whom it could only be of use. That nation might take all our vessels, before we could make any reprisals at all. It was stripping them from every effectual defence. He knew some merchants who wished the Treaty to be carried into effect, though none of them believed it good, but they wish it on account of the property which the British have taken, and which they expect to be paid for, and from an apprehension, if the Treaty be not carried into effect, war will be the consequence. These merchants do not like the plan of sequestration; they say, that private property ought to be sacred, and that no advantage could ever arise from it. He looked upon the measure himself as the last resort, either to prevent or commence war with advantage. He did not like to exercise it, neither did he like to fight; but he would not give away his arms, because they were the means of security from its being known he had them.

He did not know the amount of money owing from this country to Great Britain; but, from information from contending parties he found the estimate to vary from half a million to fifteen millions. It was also continually increasing. The power of sequestrating this money would prevent the British Government from exercising her plundering system to any alarming extent; and would be a means of preserving peace and preventing war, which he could not think gentlemen were serious in asserting, would be the consequence of not carrying the Treaty into effect. Several members are candid enough to acknowledge that this would not be the result.

Our articles of export, said Mr. F., being of the first necessity, must be had when they are wanted, and Great Britain will not purchase them, except she be in the greatest need. She took no flour but when in absolute want. Nations were obliged from necessity to take our produce when they are in want; but it was not so with respect to British exports. They have, indeed, by their industry and management, got their manufactures celebrated all over the world. They are an artful people, and it behoves us to be careful how we come into their power; for he believed no nation that ever was in their power ever escaped without injury. If the present Treaty went into effect, they should give up to Great Britain many important advantages without return. And he did not see any necessity for this, since we were the most valuable customers she had, and it would be her interest to keep on good terms with this country upon reasonable conditions, in order to have their manufactures consumed, and get our money.

He would admit that the Treaty with respect to the East Indies was not highly objectionable; but he did not agree with the gentleman from Massachusetts that it was the most advantageous commerce in which this country was engaged. He did not compare the trade to the East Indies with that to the West Indies. The latter took the produce of the country; but the former took no produce, cash only was carried there to purchase East India goods. They knew the effect of the East India trade. It was of doubtful advantage to the country, particularly when cash was scarce in the country, and every body was pressed for hard money to send out there. The articles brought from the East Indies were articles of convenience; the trade was in some degree valuable, but by no means to be compared to the West India trade. The Treaty originally gave the United States the privilege of trading to the British West Indies; but it was upon such conditions that the Senate chose rather to have nothing than trade upon such terms; but having lost this article, something was wanted in its stead. To obtain a permanent interest in the West India trade was the greatest object we could have in view in making a Commercial Treaty; this not being obtained, we have gained nothing for all the advantages we have transferred, except the posts, clogged with other conditions than our original claim.

Mr. F. said, he would not detain the Committee by general remarks with respect to the commercial part of the Treaty. It, however, increases that connexion with Great Britain which was already too great. The British merchants accommodated our citizens with credit, but this advantage drew evils along with it. The influence of debtor and creditor made it the interest of a large class of respectable citizens to be connected with Great Britain; and if anything was done to affect that interest, it agitated almost every merchant and every store-keeper throughout the United States. He did not design, by any violent exertions, to weaken the existing connexion.

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ion; but he would by no means strengthen and increase it. This consideration had great weight with him, for most nations who had had any close connexion with that country had suffered by it. We, ourselves, are a striking instance of it, and so was Holland, Portugal, &c. But with all the objections he had mentioned, if he thought the consequences of the rejection of the Treaty would be what they had been predicted by gentlemen, he would vote for carrying it into effect. But he was far from thinking so. Whilst he was debating upon this subject, he wished to have his mind free from fear, and not have a rod held over his head, the scourge of tyranny. Yet terrors were held over them. If Great Britain was that mad nation, to make new Laws of Nations, and break all the bonds of society, they might apprehend a war, and its consequent evils; but if not they need to have no fear upon them on this head. For his part, he could not see how a refusal to carry the Treaty with Great Britain into effect, was to produce war. Was it likely that she would desert every interest of trade to go to war with her best customers? Peace with us was as necessary in the present state of things to Great Britain as to us.

Was it not seen that the advantages which were proposed to be given to the United States by the Treaty to trade to the East Indies, were given for their own interest, and not for ours? Courts might have some generosity, but monopolizing trading companies have none, and therefore no advantage could be expected to be given by the English East India Company, except they had a hope of a greater in return. The trade was allowed because advantageous to the United States. If it was the interest also of Great Britain to allow us to trade to the West Indies, she would allow it, but not else. The increasing population and wealth of this country were objects of great consequence to the trade of Great Britain. It was strange, therefore, to hear gentlemen talk of our obligation to her, when the obligation lay the other way. It was our interest not to be bound to them. It had been said, because we were weak, we ought to have connexion with Great Britain. But he believed we ought to act as freemen. Let us find our own resources; if we do justice and behave well ourselves, we shall get it. We have another security, it is the interest of Great Britain, that we should do so. It would be the interest of all countries to keep themselves from being dependant on them. A new state of things had taken place in Europe. This caused him to recollect what had been mentioned in the course of the debate by the gentleman from New York, viz: that two years ago they were very desirous of treating with Great Britain. This was the first time he had heard of it, though he was then in the House. So far from it, they wished to settle their own commerce, not thinking it good policy to bind themselves to any other nation, because they were not then come to maturity; they knew not what would be best; they wished to be at liberty to regulate their own commerce according

to circumstances. He knew that the people of the United States, and the members of that House, were surprised when a Commercial Treaty was first mentioned. No such thing was intended or expected by that House, or by any body. When the Envoy was sent to Great Britain, obtaining redress for the spoliations, &c., was the only object of his mission.

A number of observations might be made upon the subject, but he believed the attention of the Committee was pretty much wearied, and indeed, most of the things which he would have noticed had been touched upon by gentlemen already. The Treaty did not give security for the future; it did not give the advantages we had a right to expect. What it did give was improperly clogged; it deprived us of an important and powerful defence; and, therefore, left us, even when ratified and carried into effect, in a state of hostility; depredations continued to be committed on our trade, and our citizens impressed contrary to the Law of Nations. On these grounds, he conceived, it was inexpedient to carry the Treaty into effect.

The Committee now rose, and had leave to sit again.

Mr. HARTLEY presented a petition signed by upwards of 600 merchants of the city of Philadelphia, and another from 800 other citizens of Philadelphia, praying that provision might be made with all convenient despatch for carrying into effect the British Treaty.

Mr. SWANWICK also presented a petition signed by 1,500 persons, inhabitants of the city and neighborhood of Philadelphia, praying that the British Treaty might not be carried into effect.

The above petitions were severally read and referred to the Committee of the Whole upon the state of the Union.

THURSDAY, April 21.

Mr. MCHLENBERG presented a petition from 800 inhabitants of the city of Philadelphia, of the same kind with that presented by Mr. SWANWICK yesterday, against the British Treaty.

Mr. ISAAC SMITH also presented a petition from 163 inhabitants of Trenton in favor of the British Treaty; and

Mr. HARTLEY presented a petition from 109 merchants and others of the city of Philadelphia, and another, signed by 133 persons, inhabitants of the said city, in favor of the British Treaty.

The above petitions were referred to the Committee of the Whole on the state of the Union.

The amendments of the Senate to the bill for the relief and protection of American seamen, were read, and referred to a select committee.

The House resolved itself into a Committee of the Whole on the bill for making appropriations for defraying the expenses which may arise in carrying into effect the Treaty with the Dey and Regency of Algiers; and on the bill for making further provision relative to the revenue cutters; which were agreed to in the Committee, went through the House, and were ordered to be engrossed, and to be read a third time to-morrow.

DUTIES ON DOMESTIC SPIRITS.

The House then resolved itself into a Committee of the Whole on the report of the Committee of Commerce and Manufactures, relative to an election being given to certain persons to pay a duty for the quantity of spirits distilled, instead of according to the capacity of their stills; and come to the following resolution, which was agreed to by the House.

Resolved, That in every case of a distiller, who hath entered his still or stills, in such manner as to be liable to pay the duty of fifty-four cents upon the capacity or capacities thereof, for the year, to end in June, one thousand seven hundred and ninety-six, wherein it shall be made to appear to the Supervisor of the District, that the said distiller has been really and truly prevented from employing or working his still or stills, during the term aforesaid, by the destruction or failure of fruit and grain within the district in which he resides, it shall and may be lawful for the said Supervisor, on application made to him any time before the last day of September next, to admit such distiller to the benefit of an election, to pay, in lieu of the duty on the capacity of his still or stills, the sum of seven cents on every gallon of spirits by him therein manufactured: *Provided*, That the duties to be received in consequence of such election, shall be ascertained, collected, and paid, according to the directions and requisitions of the several laws relating to domestic distilled spirits, in such manner as would have been the case, if such election had been originally made at the time of entry, in June, one thousand seven hundred and ninety-five."

Ordered, That a bill or bills be brought in pursuant to the said resolution; and that the Committee of Commerce and Manufactures do prepare and bring in the same.

HORSES KILLED IN ACTION.

The House resolved itself into a Committee of the Whole on the report of the Committee of Claims, to whom was referred a letter from Arthur St. Clair, respecting a claim for the loss of three horses killed in the action with the Indians, on the fourth of November, one thousand seven hundred and ninety-one; and came to a resolution, which was twice read, and agreed to by the House, as follows:

Resolved, That every officer of the United States, whose duty requires him to be on horseback in time of action, and whose horse shall be killed in battle, be allowed a sum not exceeding ——— dollars, as a compensation for each horse so killed; and this provision shall have retrospective operation as far as the fourth day of March, one thousand seven hundred and eighty-nine: *Provided*, No person shall receive payment for any horse so killed, until he make satisfactory proof to the Secretary of War, that the horse for which he claims compensation, was actually killed under such circumstances as to entitle him to this provision, in all cases which have heretofore taken place, within one year after the present

session of Congress; and, in all cases which may take place hereafter, within one year after such horse shall be killed. And the proof of value shall be, by the affidavit of the Quartermaster of the corps, or two other creditable witnesses."

Ordered, That the Committee of Claims bring in a bill pursuant to the said resolution.

EXECUTION OF BRITISH TREATY.

The House resolved itself into a Committee of the Whole on the state of the Union; when the resolution for carrying into effect the British Treaty being under consideration, Mr. RUTHERFORD spoke as follows:

Mr. Chairman: In a serious investigation of this matter, I shall to the utmost seek for truth, to do away as much as may be, such prejudices as have consequently been imbibed, guided by reason, justice, and the real state of things.

And to avoid, as far as possible, repeating observations of others, it may be necessary to be somewhat retrospective, which I hope will not be considered as altogether improper.

This virtuous people have an undoubted right to be heard by their Representatives, who are engaged by all the generous feelings of the human heart, to discharge the important trust reposed in them with fidelity and firmness.

All Governments, in the outset, have assumed smiling and placid features, but have been still in a greater or less degree in hostility with the equal rights of the people, and in the end, have uniformly managed them out of those sacred rights. Experience teaches this incontestibly.

Shall not this people reason then on a subject of such magnitude, after all that they have achieved? Or, shall they hesitate to scan with minute circumspection the state of their momentous concerns, when they may consider their dear interests involved in a decision?

And to tell the people that a WASHINGTON presides, and therefore all must be right, is feeble language, to say no more; for, though we all concur respecting that honest man, we know at the same time, that he, with all who breathe this vital air, must ere long yield to an immutable clause in the universal law.

And have this people any security for the upright actings and doings of his successor, perhaps a mere Nero, though he has been an Octavius—an Alfred?

Here I beg leave to review the patriot labors of this good man, conjoined with Hancock, Franklin, Sullivan, Randolph, and a list of patriots and worthies too numerous to name, and the task would be painful, as many of them are, alas, no more!

This assemblage of great men convened at this place in 1774, and after an anxious and interesting silence, they named the American Cicero to unfold the mighty business that occasioned their meeting; and while great Henry spoke, the generous patriot tear filled every eye.

They then addressed the justice, humanity, and affections of their former masters, in strong, manly, and moving terms, and language that will do

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honor to that group of great men, while it remains a striking evidence of their uncommon mental powers.

Another guileless address, in still more powerful language, was prepared and sent forward in the month of June, 1775, unavailing as the first. At length it was resolved, that the people should return the blows and the violence they had endured, and a man in whom the great characters of antiquity united, was selected to lead out our brave youth and virtuous bands.

All rushed forward in the common cause: the tender sex, with Spartan valor, gave up the sons of their warm affections to combat under their chieftain and common parent, while they stinted their younger children to comfort as far as they could the brave men in arms. I live a witness of what I advance.

And shall this great and virtuous people tremble now with superstitious horrors or unmanly fears, after astonishing the observing world, and for whom the generous Gaul crossed the wide Atlantic, to combat side by side, in many a martial field?

Shall the same people now request, as a boon, to be the servants, and adventurous painful collectors for those who could not enslave them, while few in numbers and apparently destitute?

Has the Treaty of 1783 been faithfully observed? Or is there a sentence in that Treaty that looked towards the American people that has not been violated? And has not this violation been the cause of horrid, indiscriminate carnage on our extended frontier?—not to mention the enormous expense to the Union.

But it is now urged by some, that the present Treaty must be religiously observed on our part, be the terms what they may. Much might be said on this subject, but I wish to draw a veil, and to commit injuries to silent oblivion, because I regard that people for all their virtues.

It is with much concern I discover good patriots and respectable merchants alarmed, for the frontier and our commerce; these call for reasoning, as the peace and prosperity of individuals is very near to me, who would endure much to render all perfectly happy. Fear not, generous merchants! you will still have the commerce of that nation; remember they are a great commercial people, too wise to gratify an unavailing malignity to their disadvantage, as the commerce of this country is much in their favor. But I conjure you, as friends and patriots, and by the gratitude and justice due to our common country, and to a generous people who have fostered you, not to be partisans of any nation, or to persuade such nation that they are treated rigorously, and their ruin contemplated, because such opinions are quite unfounded, and no good purpose can result from the propagation of such.

And fear not, virtuous farmers! your lands will yield their harvests, and your trees their fruits, independent of the smiles or the frowns of any nation on earth; and the surplus of your toils will at all times be received with good will, agreeably with the existing demand. Reason and good sense

will teach you however that the present demand can not be of long duration, and the same train of concurring circumstances may not prevail while any of us are in being—so that to imagine a commerce with any one nation as having produced such demand is fallacious and unfounded in the extreme. No nation or people will take off this surplus to serve or oblige the American people if their interests have no share in the business.

I shall now return to the subject of our frontier, and inquire, what can induce a great nation to wreak an unavailing vengeance on men, bending under the pressure of time, and on innocent women and children? Surely the annals of a magnanimous people have too long been stained, and charity revolts at an idea that the same people will continue such scenes of horror for mere sport, if they really had the power, which could only create an aversion in the American mind, that time would not eradicate, and divert a lucrative commerce to that nation, into channels from whence it would never return. The inoffensive Americans contemplate no conquests, nor do they wish to interfere in the politics of other countries further than justice and the warm calls of gratitude demand, and their own safety as a nation shall dictate. Shall this people, then, be restrained in transporting the surplus of a painful industry to such as receive the same with gladness and mutual confidence; or shall they fear an arrest on the great liquid highway, where the inhabitants of the deep roll at pleasure, free as air? Thus the Deity given a patent for that element to any description of His creatures; or will not the great law of all nations protect the American flag while they support a national character? And the people of Britain are too wise, magnanimous, and just, to increase the reproachful character of mighty sea-robbers.

If the present Treaty is defeated, as it ought to be, the matter will then be open to friendly and equal negotiation; and though the commerce of that country is much against the common interest of this country, yet the people have no fixed antipathy to treat on terms of reciprocity. Read the second article, and the first paragraph of the third article of this Treaty. The second article converts our territory, so long withheld, into mere neutral ground, and to foster our most inveterate foes—these stamp the whole. I will read only the paragraph alluded to, and that, I trust, will place the matter in a proper point of view, and induce some serious reflections on this business, as the warmest advocates for the Treaty cannot misconstrue that paragraph. It will evince a friendly disposition and a desire to establish good neighborhood, harmony, and intercourse, if the Western posts are no longer detained, by the most manifest infraction of a Treaty, solemnly concluded more than thirteen years since. For surely a Treaty, while the hatchet of death was suspended over the heads of our aged men, and our innocent women and children, can neither be cordial nor of long duration. The British nation have too much wisdom to draw a different conclusion, and they will, on a dispassionate retrospect, surely decide

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with prudence and justice. The Americans demand no more than justice, and they wish to avoid all retaliation, though within their power. This being truly the state of things, shall the Temple of Justice be shut, and this people be denied the advantages resulting from this unerring guide to man, and coeval with the physical world? Treaties embrace the dearest interests of a nation. Then surely the Treaty-making power must be subject to some other power or control. Reason is stunned by an idea that a people can transfer power, beyond their own control, without an alternative, or that the present generation can bind posterity forever.

Much stress has been laid on the PRESIDENT's signature; so that I will inquire what could the PRESIDENT do but sign this Treaty, as it came to his hands? Was it not natural for a man of his humanity to shudder at the idea of being solely responsible, in a business of such moment, while he was stunned, as it were, by the surrounding cry of war, from such as dreaded that event?

Surely, the misfortune was antecedent to that signature, and originated in sending one man to negotiate with a very wise and powerful Court; practised for centuries in all her arts of negotiation, not to speak of the best skilled, and most powerful companies of merchants on earth. Was Mr. Jay on equal ground? I shall not reply. Much might be added. But shall we not reason on this great subject ere it be too late? I speak for this generous people, and for all posterity. I am intimately connected with the present race; my relatives are numerous, and every man of probity and patriotism is my friend, and let no honest man fear the level of this virtuous people.

Do good patriots reflect on the consequences resulting from their principles, and on the great difficulty that presents in recalling powers once surrendered? Arguments to prove that all is smiling prosperity, are very fallacious, and cannot operate forcibly against a prudent and timely precaution to turn aside those evils which must ensue if such precaution be neglected—one scruple of prevention being of more real worth than many pounds of remedy. Or, will a man of common sense recline in the shade on a fine summer day, without reflecting that night, and even wintry storms and pinching cold, will approach?

Much has been said without these walls about British debts, and an aversion to pay, by many who are not rightly informed in this matter, and hurried on by party clamor; but for the information even of those, I will offer a few words by way of reply. The strong Cutting Companies in Great Britain had long received the produce arising from the labor of individuals in some States, and all the specie that the people could acquire, was uniformly received by their factors, by which these companies became more powerful and wealthy. That they really engrossed the trade of some States, and worried and run down the native merchant by a general credit, which of course created some bad debts, as is the course in common life. And this evil was increased by the flight of their factors, who shut their books, and

retired so soon as the great conflict commenced. And I have been told, and believe it to be a fact, that some of these companies actually fitted out privateers to cruise against those of our friends and supporters, which in reality was distressing this people. Be that as it may, every man of property who had not deposited his debt for them, hastened to pay so soon as their factors returned to inform them the amount of their several debts. But will any man contend that the United States ought to be responsible for bad debts contracted at the desire of those companies, and with design to cut up the native merchants? What can entitle them to this great indulgence? did they send their several factors to serve the people?

But to return to the Treaty. Was the PRESIDENT satisfied with the Treaty? Surely not; but were not a well-informed and very respectable minority in the Senate decidedly against this Treaty; and have not the members of this more numerous body an undoubted right to judge for their constituents, who have reposed such confidence in them? They intend no reflections on the PRESIDENT and Senate; they consider them as acting for the best at the time they did act, and with the information they then possessed; but time and observation has supplied this House with such information as the Senate could not be in possession of.

We are not contending about the virtues of the PRESIDENT, or of the Senate. All regard the PRESIDENT as a common parent, and reverence the Senate for all their virtues and the stations which the people have assigned them. Upon the whole, I call to my Eastern patriots, fellow-laborers, and conjure them by their affections for this our common country, by the manes of the great Warren, and all our departed patriots and heroes, not to be duped by an opinion, that malignity and party spirit actuate members to bitterness against the PRESIDENT and the Senate for sinister purposes. Such opinions are not advanced by the friends of the Union or of the Revolution, and being entirely unfounded, ought to be viewed with horror and contempt.

Finally, I call to the British nation, warning and conjuring them, by their real interest, and national character, not to indulge a violent or captious malignity, which can only tend to sever the two nations while they exist as such.

Thus have I offered my sentiments with sincerity, and I trust, with respect to all, while I am conscious of the truth and the justice of what I have advanced, but shall yield to the opinions of a majority of the Representatives of the people as they may decide, and without a murmur.

Mr. HENDERSON desired to know what the gentleman who just sat down meant, when he said, "look at a firebrand cast among our councils, which appeared and dissipated."

Mr. RUTHERFORD said, every one must recollect that a certain agent cast a firebrand, and two days after took his canvass wings across the ocean.

Mr. HENDERSON expressed himself dissatisfied with the explanation.

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Mr. MOORE.—Mr. Chairman, I rise with diffidence to give my sentiments on so important a question as that now before you, especially as I have been preceded by gentlemen whose superior abilities have enabled them to investigate the subject with more accuracy than I am capable of. I consider the object as important of itself. It is rendered more so by the warmth with which it has been discussed—the irritation it has produced, both in this House and on the public mind. I lament that improper motives should be imputed to gentlemen on either side. I am disposed to believe, that gentlemen aim at doing what will best promote the public interest. I entertain no suspicion of designs against the Government by any member of the House, or any branch of the Government. Gentlemen have predicted a war and dissolution of the Government, if provision is not made for carrying the Treaty into effect. I have no apprehensions of either. It is highly improper to attempt too influence the votes of members by such declarations. I hope gentlemen will believe that members who differ from them in opinion, are equally zealous with themselves in discharging their duty, and have firmness enough to repel every attempt to intimidate. For myself, I have equal confidence in every part of the Union, that they have no wish to dissolve it. The suggestion is unfounded, and ought not to be made.

Mr. Chairman, the vote which I shall give on the question before us, will, in some degree, be influenced by a Constitutional principle, which I consider as involved in the decision. On the resolution calling for the instructions given to Mr. Jay, and other papers relative to the Treaty, it was insisted on by members of this House, that the Executive has a right, by Treaty, to supersede all Legislative powers vested in Congress by the Constitution. The Executive gives the same construction to the Constitution. If, under these circumstances, I vote for the resolution before you, I consider myself as admitting, as recognising the principle contended for. This I cannot do. On the admission, or rejection of this principle, I am of opinion, the future course, the future operations of Government materially depend. By this it will be decided, whether it is wholly Executive or not; whether this House depends on the courtesy of the Executive for their right to interfere in legislation.

It has been argued that this extensive, unlimited power was necessarily vested in the Executive, subject only to the control of the Senate. In order to support the sovereignty and independence of the small States, I do conceive that a branch of the Legislature in which the States are equally represented, was all that could be claimed. Can it be conceived to be necessary, just, or proper, that the regulation of all the important interests of the Union should be at the disposal of the Executive? Can gentlemen seriously believe that the citizens of the United States, who opposed, at so great an expense of blood and treasure, the claim of Great Britain to tax us unrepresented, would admit all their interest to be

represented by so unequal a representation as that contended for? It has been asked, Is not the Senate as worthy of the confidence of the citizens of the United States as this House? I will ask, are they more? This Legislative power is restrained and checked by the Constitution; particular modes and restrictions are prescribed, but no checks are imposed on the Executive. Were the people jealous of this House, and not of the other branches? Did they suspect the Legislature of doing wrong? When this House was connected with the other branches, were they to regulate their interests; and have they reposed unlimited confidence in the other branches when acting without this? Did they consider this House as the only branch from which any danger was to be apprehended? It is impossible, yet this must have been the fact, if the construction given to the Constitution is a just one.

A gentleman from Connecticut has said, that gentlemen had prejudged the Treaty; they come forward with prejudices against it, determined to vote against it. It is not so with me. I was strongly inclined to vote for it; to make some degree of sacrifice rather than defeat it.

Gentlemen, on reflection, must be convinced that the question has not been prejudged. The Envoy was appointed at the moment when this House was deliberating on means for preventing further spoliations on our commerce. Commercial regulations were proposed, and other means from which they might have been forced to abandon their unjust and oppressive system. I remember well the arguments then used were convincing to my mind; that those were the only weapons of defence within our power; that they would be effectual. But these were arrested by the despatch of an Envoy Extraordinary. Some of the leading features of the Treaty were then predicted; the event has corresponded with those predictions. Principles were then discussed which the Treaty contains before the negotiator was appointed.

This shows there was no prejudging in the manner gentlemen have stated. By this Treaty all the measures then contemplated by the Legislature are arrested; an eternal veto is imposed against our ever carrying the measures then contemplated into effect. This shows that the Executive claims not only the Constitutional right of forcing this House to pass what laws they please, but also by Treaty, to declare what they shall not do.

We have passed a resolution, which is now on your files declarative of the sense of this House as to their Constitutional rights. The question is, however, undecided. The Executive and Senate will proceed to act on their own construction. They may, on their own construction, make a Treaty which will imply a still more imperious and commanding necessity to provide for its execution, than even the present case. This necessity may force a relinquishment of the right contended for by this House. It may force an acquiescence in the Executive regulating all the interests of the Union. I believe it was not the sense

of the framers of the Constitution. It is not the sense of the people who adopted it. It never can be mine.

The merits of the Treaty have been ably and accurately discussed. I will make but a few remarks on it. I must disagree with the gentleman from Connecticut, who mentioned as a well known principle in judging of Treaties, that all property, (by fair construction, and by the established Law of Nations,) if not excepted particularly in a Treaty, remains in the same state in which it was found when the Treaty was made. Those in possession retain the possession. From this he has concluded, that negroes, taken during the war, had become the property of the captors, or rather, were emancipated. The words of the Treaty of Peace are, "negroes and other property."

This plainly shows, in his opinion, that, by negroes, was not meant those taken during the war; they were not American property. The property was changed. It could not be intended, such negroes as were taken after the peace. I will ask was it ever known in a Treaty that a stipulation was made to give up property plundered after the peace? Is it not an established principle amongst all civilized nations, that plundered property shall be given up? Is it necessary, or was it ever thought so, to make it a stipulation by Treaty? I believe, if his construction is a just one, it is a new case, the provision was at least nugatory.

But if the principle he lays down is a just one, how does it happen that debts due to British subjects, paid by the debtors into the Treasury under the sanction of a law, and appropriated to the use of the State, are now recoverable by the British creditor? An important case of this kind has been decided in the Federal Court, and judgment given for the British creditor. Was the property less changed by the law of a sovereign and independent State, than by the proclamation of a British commander? This cannot be. The fact is, however, that in two cases, found in the same instrument, there are claims founded on the same principle, the one, a British claim, is established, the other, a claim of the United States, is rejected. This involves in it an absurdity. By those opposed modes of construction, an important claim of the citizens of the United States is given up by the Treaty, a claim against them to a great amount is established.

The claim against us is admitted; our claim is rejected, in cases where the same principle fairly applies, and where, by gentlemen's own showing, there is no dissimilarity which can justify such opposite constructions. There is another provision of the Treaty, by which an important interest has been sacrificed. British subjects held lands within the United States before the war, many of those claims were barred; the claimant being an alien could not recover; his being an alien was the only bar. It was effectual—such has been the decision of the Courts. But by the Treaty, being aliens shall not bar the claim of British subjects—thus, many of the extensive claims are restored. In some of the States more than half their territory will be re-vested in pro-

prietors. What could induce this grant? What equivalent do we receive for this sacrifice? Sir, I am constrained to think the Treaty a bad one, in those instances I have mentioned, more so than in any others. And when I connect with the Treaty itself the important Constitutional question which has been discussed, I cannot vote for the resolution before you.

Mr. KITTERA.—Since the 4th of July, 1776, the Councils of America have not been agitated by so momentous a question, as that at present before the Committee. At the period to which I allude, the question was, whether we should tamely submit to an abject and disgraceful slavery, with all its concomitant evils, or, by a Declaration of Independence, an exertion of our internal strength with the advantages of foreign aid, make a bold and manly effort to obtain the blessings of freedom—the solid rewards of well-earned liberty. The present question is, whether we shall supply the means of carrying into execution a Treaty of Commerce and Amity with a powerful nation, entered into by a Minister of the United States, and solemnly ratified by the authorities constituted by the people for such purposes; or, by refusing, perhaps unconstitutionally refusing those means, hazard the peace, interrupt the prosperity, and tarnish the honor of the country? In a question of such magnitude, prudence calls me to pause, duty to reflect. My country's faith is pledged, a solemn contract is made; it would therefore be unwise and impolitic, as it concerns the interest, and dishonorable, as it regards the character, of this nation, in the infancy of its existence, to violate so solemn a contract.

Two causes have contributed much to prejudice the American mind against the Treaty. 1st. An enthusiasm for France, struggling in the cause of liberty, against the combined monarchs of Europe, in which combination, the very power with whom the Treaty was made, formed a prominent part. 2dly. Strong resentment against Britain, for injuries received during a tedious and cruel war, and those injuries renewed by a detention of our Western posts, exciting and aiding the savage Indian tribes in the commission of hostilities on our frontiers, with strong indication of a design to contract our boundaries, and their lawless depredations on our commerce. I will not add, that there are amongst us some irreconcilable enemies to this Government, who opposed its adoption, predicted its downfall, and whose pride and political consequence are suspended on the fulfilment of this prediction. For the honor of human nature, and for the character of my country, I hope there are few to answer this description; if, however, there are any, the poet's execration is to them peculiarly applicable: "Cursed be the man who owes his greatness to his country's ruin!"

There are some things in which the candid part of those who hear me will not disagree. 1st. That our Envoy was a wise and honest man; he was a tried patriot, skilled in diplomatic life, and rendered to his country important services during the late war. The tale of his receiving British gold was made for children and fools, and need only

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to be told, to be disbelieved. 2dly. He made the best bargain he could. I will not mention, in proof of this, the ratification of the contract, eight months afterwards, by the PRESIDENT, (in whom this country has certainly an unbounded confidence,) with the advice of two-thirds of the Senate; but I have proof positive. The letter of Mr. Pinckney, our Minister resident at London, and conversant with every part of the negotiation, in strong and decided terms advises Mr. Jay to accept the contract as the best that could be procured, and as one that would promote the interests of this country. 3dly. If negotiations had been unsuccessful; if the Treaty, on the terms offered, had been rejected, war must have ensued. Our national honor would have forbidden a tame submission under so many insults and injuries; such submission would have invited new insults, and our own safety would have made resistance and retaliation necessary.

The Treaty naturally presents itself under two general heads. 1st. Such parts of it as are permanent, to wit: the first ten articles. 2dly. Such parts of it as are temporary, to continue for two years after the expiration of the war in which Great Britain is now engaged. Three great points are embraced under the first arrangement. A surrender of our Western posts, compensation for the spoiliations committed on our commerce, and the payment of British debts. However lightly my colleague from the Western part of Pennsylvania [Mr. FINDLEY] spoke yesterday of the Western posts, I consider the acquisition as an important treasure to this country. It will not only increase the value of our Western lands, and open to us a new source of commerce, but it will relieve us from the expense and horrors of an Indian war. Those were the sentiments of the gentleman himself on this floor, two years ago. The spoilation on our commerce has generally been estimated at five millions of dollars. On a rejection of the Treaty, I wish the gentlemen in the opposition to point out how the American merchants are to be reimbursed for their loss. Nothing can be expected from new negotiations. It would be a solemn mockery of justice to the claim of those citizens. Payment out of the Treasury has been talked of, and a resolution to that effect is now on your table. This can never be done. It would be without a precedent, and Congress has heretofore refused the claim. And how can you discriminate such claims from those rising from savage depredations on your frontier settlers? The protection of the Government was, at least, as much due to the peaceable farmer as the speculating merchant; and if losses have arisen from want of such protection, compensation is as justly due in the one case as in the other. But why are we to subject the Government to this payment, or our citizens to this loss, when compensation is offered by the nation that has done the wrong? As to British debts, the Committee have had various calculations of their amount.

I believe some of the estimates have been exceedingly exaggerated. If they are even half the enormous sum that has been stated on the other

side, we have not much difficulty in accounting for the extraordinary opposition to the administration of this Government that has appeared in a certain quarter of the Union. Whatever may be the amount, the nation is bound by the strongest ties of justice and national honor to secure the payment.

To the 9th article it has been objected, that the confiscated claims of the ancient proprietors, traitors and exiles, are therefore revived. Were this true, it would be a serious objection to the Treaty. Indeed, the gentleman from Virginia, who first made this objection, [Mr. GILES,] did not contend for this construction, but asked the use of inserting the article unless for this purpose? The article is not without its use. It speaks in the present tense, of those "who now hold lands, that they shall continue to hold them according to the tenure and nature of their respective rights therein;" and therefore cannot embrace those who hold no lands, but whose estates were confiscated prior to the Treaty of Peace in 1783. It gives no new estate, enlarges or revives no old title, but confirms to British subjects their titles in the same manner in which they were confirmed by the 5th and 6th articles of the before-mentioned Treaty, with this difference, that they may descend to the heirs of the present holder, notwithstanding the alienage of such heirs. It has provided against escheat on the death of the present holder. This provision is reciprocal, and it was just and reasonable, considering the relative situation of this country and Great Britain, that such provision should be made. And from the immense emigration of people of fortune and family, from Great Britain, Scotland, and Ireland, to this country, on whom descents may be thrown, this is a favorable article to the United States—it is founded on justice and reciprocity.

The second division of the Treaty is of temporary duration, and if it has evils, they cannot be of long duration, nor of such magnitude as to justify the hazard of interrupting our present state of prosperity by a rejection. One novel objection to the Treaty, was the impertinent observations of Lord Grenville to Mr. Pinckney, which led to an apprehension that the British might interfere with our internal Government; but not a whisper is made against a foreign Minister who built and fitted out privateers, and enlisted men from one end of the Continent to the other; and when desired by the Executive to desist, appealed from the PRESIDENT to the people. If the real objection be, that it is a Treaty with Great Britain, it is true, and therefore unanswerable. Indeed, a great part of my colleague's reasoning [Mr. FINDLEY] went to show, that any connexion with Great Britain was a political evil, as they would thereby acquire an influence in our Councils. Such arguments might be objected to with as much reason, and, indeed, with more force against a bad Treaty, than against a good one.

It has been made an objection to the Treaty, that British vessels shall pay no higher or other duties in our ports than the vessels of other foreign nations. 1st. This regulation is made reciprocal,

and our vessels pay no other or higher duties in British ports than the vessels of other foreign nations. 2dly. This is a standing regulation in all Commercial Treaties. In our Treaty with France, the Netherlands, Sweden, Prussia, &c., the same thing is covenanted, only in stronger terms; the words are, "no higher or other duties than those of the most favored nations." In our first Treaty with France, we guaranteed to that nation all their West India possessions; we are now released from this guarantee. In our late Treaty with Spain, for which appropriations have been voted, without a dissenting voice, we have guaranteed to them peace with several powerful tribes of Indians. It may be said, that this guarantee is reciprocal. It is so, without much reciprocity, as all those Indian tribes, or chiefly all, reside within our boundary. It is said, that Great Britain, by this article, has reserved the right of equalizing the tonnage of American vessels in British ports to that of British vessels in American ports. This right she had prior to the Treaty, and will have, if the Treaty is rejected. Two objections have been made to the 18th article. 1st. That provisions are made contraband in cases not warranted by the Law of Nations; and secondly, that the list of contraband articles is extended beyond that contained in any other Treaty. The first objection is totally unfounded. The article declares that provisions and other articles, not generally contraband, becoming so, "according to the existing Laws of Nations," shall not be confiscated, but the owners of such articles shall be fully paid, with a mercantile profit and demurrage. It would, therefore, be a violation of this Treaty, and a good cause of war, should Great Britain declare any article contraband which is not so by the Laws of Nations, though such declaration was attended with an offer of payment. This article has given a privilege, but has restrained no right. If the fleets and armies of France should besiege a British island, and an American merchantman, in attempting to supply the besiegers with provisions, should be captured by a British cruiser, it would not be a cause of confiscation. So far from declaring provisions contraband, when they are not so, the article provides that they shall be paid for when they are clearly contraband. As to the second objection, that the list of contraband articles are extended beyond that contained in any other Treaty it is to be observed, that war abridges the rights of commerce, as respects neutral nations. It is therefore of importance to settle by Treaty what shall be contraband. Naval stores are the articles to which this objection applies. *Vattel*, *Grotius*, *Bynkershoek*, and all the most approved writers on the Laws of Nations, have declared naval stores contraband. In a Treaty made between Great Britain and Denmark, as late as the year 1780, not only the same words are used respecting naval stores, but horses and soldiers are added; and in a Treaty with Sweden, naval stores, money, horses, and provisions, are made contraband. In almost all other Commercial Treaties, horses are declared contraband, in this they are free. It is observable, that Con-

gress, in 1777, in the form of their commission to commanders of privateers, directed them to make prize of all provision ships. Indeed, this article is peculiarly favorable to us in a state of neutrality. American goods going to places blockaded by France or Holland, are contraband; not so, if going to places blockaded by Great Britain.

It has been objected to the 21st article, that American citizens are prohibited from entering into foreign service against Great Britain, and that commanders of privateers are punishable as pirates. 1st. It is to be observed, that the restriction is confined to a time of war; during a state of peace, the restriction does not operate. And with respect to the commanders of privateers interfering in the war, being made punishable as pirates, the same article, in the same words, is introduced in that much favored Treaty with Spain. This article is also reciprocal, and we have at least as much to fear from the naval skill and military knowledge of British subjects, employed against this country, in case of war, as they have from the skill and knowledge of American citizens. This article appears to me to contain a wise regulation. It tends to preserve the peace of this country; there is always some danger in playing with edged tools.

It has been said that the British may defeat the advantages promised in the East India commerce; having agents in the country, they can buy goods cheaper, and can supply the United States on better terms, than the American merchants. Though my learned colleague from Pennsylvania, [Mr. SWANWICK,] is well informed on all mercantile subjects, he certainly has not been correct and candid in this objection. It is a standing chartered regulation of the East India Company, that their goods must be landed in London; there is, then, a double voyage, with all the incidental expense, and foreign duties and tonnage, which will give the American merchants a decided advantage. But, again: Congress may, by law, altogether prohibit the importation of Asiatic goods, in any but American bottoms, without a violation of the Treaty. I consider the East India trade a source of great wealth, as we shall probably supply many of the markets with Asiatic goods.

It has been objected that neutral vessels do not make free goods. This is a principle of the Law of Nations, that Great Britain has never given up to any nation, and perhaps never will, particularly in time of war: the principle will remain the same if the Treaty is rejected.

Objections have also been made to the insufficiency of the sum in which commanders of privateers are to give sureties, to wit: £1,500 and £3,000.

This, I believe to be the usual sum. In our Treaty with Sweden no sum is mentioned; and in our Treaty with Holland no security at all is given, but the Captain is to forfeit his commission for misbehavior. I have thus cursorily noticed most of the objections made to the Treaty, and offered some of those reasons which have induced me to believe it for the interest and honor of the country to vote for the resolution on your table.

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Mr. HOLLAND said, he would submit some considerations to the Committee, that, together with those which had been given, would influence his vote upon the resolution on the table; a subject, as had been said by all who advocated the resolution, of the first importance—an issue on which depended peace or war. He said, he considered the question of some importance, particularly as it related to their Constitutional powers; but the conceptions of gentlemen had exaggerated the result of the present question. It was nothing more or less than, would they or would they not now appropriate moneys to carry the British Treaty into effect? He said, he had ever felt a disposition to that purpose; not because the faith of the nation, as had often been said, was pledged; not because they were under moral obligations, as had been contended for—neither of which he could admit; but because a respect was due to the negotiator, to the Senate who advised, and to the PRESIDENT who ratified it; for, it was to be presumed, until the contrary appeared, that they exercised their judgments for the good of the nation. But it was possible the means they have adopted may not produce the end intended; they may have been mistaken.

When he first examined the instrument, he was in hopes that there was something extrinsic existing, which, when communicated to him, would do away the exceptions on the face of the instrument, and therefore he was silent, and suspended his judgment. It was for that purpose he had voted for the papers relative to the negotiation to be laid on the table, in hopes of obtaining further information, previous to his being called upon to carry it into effect. But, unfortunately for him, no further information was to be obtained. The useful papers, an innocent and humble request, were not granted. He was not possessed of any other information than could be drawn from the instrument, from the writers on that subject, and the arguments that had been advanced by the gentlemen who had advocated the resolution; to the whole of which, he had with candor attended, and with regret informed the Committee, that nothing had been advanced, that had convinced him of the reason, propriety, necessity, or fitness, of the stipulations contained in the instrument.

Those gentlemen, instead of reasoning, have endeavored to alarm. They have said that, if we do not carry this Treaty into effect, that we shall be plunged in a war; that Britain is a proud and haughty nation; that they will lay their hands upon all our property, &c. This was an address to our fears and not our reason, and were our fears once on the wreck, there is no knowing the result, or where we should land. But, in this instance, we would not be governed by panic or dread of the power of that haughty nation, as they had been called; but, as a Representative of a free and independent nation, he felt himself perfectly at liberty to exercise his reason, in the most cool and deliberate manner. Not apprehending any danger, the time has been, and now is, that we are perfectly secure in asserting our equal and reciprocal rights with that nation. We have done it in

a state of infancy and inexperience, at a time much more unfavorable, taking each side of the question into view, than the present. And shall we now hesitate and tamely suffer them to dictate to us? And are we bound to accept the Treaty, lest they should be offended and treat us with contempt, for not accepting, as it is said, a more favorable offer than they have given to other nations? Are we not the sole judges; have we not a right to determine for ourselves? And as this is a mere naked stipulation, they can receive no damage, nor, on this early notice, can they charge with deception, or have any right to complain. One thing is certain; so long as Great Britain finds it for her interest to be pacific, she will adopt measures calculated to preserve peace; but, when interest dictates the contrary, her invention will not seek a pretext for a different conduct. The history of that nation gives abundant proof of this.

Independent of the Treaty, it has been shown, that their peculiar circumstances have produced all the commercial advantages to the United States, and more than is secured to us by this instrument. The existing causes will produce and continue the effect, without sacrifice or equivalent. I cannot but observe, that all the gentlemen in favor of the Treaty have requested our impartial and candid attention—thus, presupposing that they assume to themselves what they urge us to possess. They would do well to examine what part of their conduct, compared with ours, gives them a preference.

A gentleman from Connecticut, [Mr. HILLHOUSE,] who went diffusively into the subject, said he would be impartial, and would take both sides into view. His language being in the spirit and tone of all the others, he would observe upon what he had said. He set out by saying, that this Treaty opens to them a new world; that it will give a spur to enterprise, and command all the fur trade. The gentleman from New York, [Mr. WILLIAMS,] not behind him in calculation, says, the whole trade will centre at New York; that it will amazingly facilitate the progress of that city; that, at present, there is an annual increase of population from eight hundred to one thousand houses; and that, in a century, it will be equal to London; and then, with seeming surprise, asks, shall we now arrest its progress by rejecting the Treaty?

Those two gentlemen, in their impartial rhapsody, have fancied this Treaty has given them the world in a string; that it contains in itself, and secures to them all possible advantage; and that the rejection would be attended with every possible evil. But all this remains to be proved. Could he view it in this manner, he would be guilty of injustice not to promote it; or should it realize one-tenth of those advantages to Connecticut or New York, he would make a large sacrifice in their favor. But the reasons produced to prove this, or even make it probable, were foreign, and did not go to convince, or at least had no more weight upon his judgment than to prove that this Treaty could have a partial and temporary operation in favor of a few fur-traders; but failed to

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remove the solid objections that had been stated; that it contained in itself stipulations that in their operation would contravene some of their invaluable privileges; as he also would attempt to show to the Committee, after he had made some further observations on what had been said. He observed there was a material difference in the nature of the property calculated upon by the gentlemen from Connecticut and New York, and the property that he calculated. That of those gentlemen was an estimation of advantages to be gained by extending their trade to the Indian country and elsewhere; that, in its nature, was subject to contingencies, and at most was but a profit in expectancy. But property on which he calculated was national and personal rights realized, and personal property now in actual possession; the rights were to be ceded and the property to be put at hazard, and probably both eventually sacrificed. So that there was no similarity, no competition in the cases.

For what purpose he was at a loss to know, but a gentleman from Connecticut [Mr. HILLHOUSE] had said that the United States were under no obligations to France, and that he was not bound to respect them more than any other nation; that sinister views and national honor once engaged them in our interest, and that we should have been independent without their assistance. Mr. H. said he would not assert this was impossible, but he would venture to affirm that their fidelity, prowess, and co-operation, greatly facilitated our independence, as would be demonstrated by attending to one case out of many. He alluded to the case of Yorktown, and the surrender of Cornwallis; to say nothing of the land forces, could this have been done but for the blockade occasioned by the French fleet? He hoped that no gentleman would hesitate to admit that they had been greatly useful to us, and that it would be ingratitude not to acknowledge it. For his part he would ever consider this country under peculiar obligations to that spirited and magnanimous nation, and to all others who like them fulfil their trust—it is a tribute due to fidelity. Charity forbids our saying that they acted then and now from sinister motives: they assisted in the cause of our freedom; they are now fighting alone in the cause of mankind. But the same gentleman says he will go into the merits of the Treaty, and begins by saying that the insertion of those words relative to the negroes in the Treaty of Peace, in 1783, made no difference as to the construction or operation of that Treaty. If we are to judge from the operation, he is certainly right, for they had hitherto had no effect. But to prove that they were intended to have no operation, the gentleman read extracts of correspondence which took place between the negotiators, antecedent to the Treaty, which was a reference to the Law of Nations, as abridged by Vattel; in which it was said, that a Treaty leaves all in *statu quo* that is not expressly stipulated for. This doctrine turns upon the gentleman, and proves the reverse of what he expected; for, if nothing had been said respecting the negroes, they would have remained with the Bri-

tish; but they having been mentioned and stipulated for, was to produce the contrary effect. But, he says, the words were intended to guaranty the negroes that then were in possession of the Americans, and not to restore those that were in possession of the British, in America. Mr. H. read the clause, and then asked the Committee what was the plain sense of the words, or the construction that they most naturally bore? Was it to prevent the British from taking off negroes that then were in their possession, belonging to the Americans? or to prevent the British, subsequent to the Treaty, from stealing or by violence taking from the Americans property in their actual possession? If this latter was the intent, the clause was useless; a conduct of that kind would have been an infraction of the Treaty, and of the known rules of common honesty; a violation of the rights of private property, and punishable at common law. Nor would the British negotiator have admitted the section under that conception; he would have considered it an implication upon the common honesty of the officers and citizens of his nation, and must have treated it with contempt. But the gentleman's impartiality has wound him up to believe this to be the true meaning, and to justify it; to be in love with this, and to regard every other article in the present Treaty, however it may appear to others, truly advantageous and admirable. He does not find fault with the provision order, although by the President it was thought most exceptionable; nor does he, with others that have spoken before him, dislike that article where free bottoms do not make free goods, but thinks it in our favor, because we have no fleet. He would reverse the case—that free bottoms should make free goods, because we had no fleet; that if we had a fleet, the provision would be immaterial; that if we had a fleet, we could protect our commerce.

The same gentleman has said, that the Spanish Treaty was more exceptionable than the British but he voted for the appropriation to accommodate his brethren to the Southward, and hoped they would now accommodate him. But the reasons assigned against the Spanish Treaty were of the most curious kind. It was because in that Treaty the United States and His Catholic Majesty are jointly to guaranty against savage hostilities. This he conceives to be a most exceptionable part. Truly it carries in it something formidable, but the complaint might be expected to come from the nation, combined against her who might justly say the combination was unfair. These are the reasons adduced by gentlemen in favor of the resolution.

But a gentleman from Rhode Island, [Mr. BOURNE] lately up, advanced something of a more serious nature; a doctrine that requires better investigation; and although the point was determined by a large majority on a former vote, yet as the ground was contested, he would beg leave to observe upon what fell from him. That gentleman had said, that if the Treaty had not committed some of the essential interests of the United States, or if it was not unconstitutional, that we

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are under every moral obligation to carry it into effect, that the faith of the nation is pledged, that our national honor is at stake, &c. These assertions and propositions are of a high nature, demand a serious consideration, and ought to be maturely investigated. He, therefore would begin by a denial of the whole. He would not concede that the Executive had power to pledge the faith of the nation; to alienate the personalties, labor, commerce, or real estate of the nation, for the fulfilment of any contract, unless the nation had previously specified the contract; nor would he admit another construction contended for, that the Executive, by Treaty, could repeal any of our Federal statutes. These two positions would place the United States in a precarious situation indeed. In the first instance, it imposed an obligation upon us incompatible with the principles of legislation; and, in the second instance, the whole mass of our Federal statutes existed by the courtesy of the Executive, and could be abrogated by him in a manner above all other the most odious, by calling to his aid a foreign Power, and by this association destroy the whole of the Legislative acts of our United States. If this be the Constitution, where are the boasted advantages derived from legislation, when the present Executive, or one in future, less virtuous, could effectually defeat and swallow up all our Legislative powers? He said, he trusted that the benefits secured by the Constitution did not depend upon so precarious a tenure; but, on the contrary, when statutes were formed by the supreme Legislative power of the Union, that no less a power than was essential to their formation could suspend, alter, or repeal them. Upon this principle he, therefore, would rely, and from it would not recede.

Upon this construction, it must follow that the House of Representatives have it in their power to keep in their existing form the whole mass of the Federal statutes. This power being rightfully and essentially in each branch of the Legislature, it is their duty to exercise it on all occasions; for them, no less than for private persons, are the two rules, that they are to do whatever their judgment dictates should be done, and to leave undone whatever their judgment warns them not to do. If, therefore, the House of Representatives have it in their power to keep in their original existing form all our Federal statutes, they must take an active part in altering them, or they must decline to take an active part in altering them, in which case they will not be changed, according to the dictates of their judgment, corresponding with sound policy. Let us, for a moment, apply this doctrine to the present case. If this Treaty involves in it the labor, personalties, commerce, or real estate of the nation, for the fulfilment of the stipulations therein contained, or if it is contrasted with any of our existing statutes, or if any specific objects constitutionally given to the Legislative power, are to be alienated, the House of Representatives have to determine on the expediency of the measure.

The State Conventions, in adopting our Constitutions, and all nations, have considered the re-

venue to be the sinews of Government, and have placed the free, unincumbered, and absolute disposal in the supreme Legislative power, and our Constitution, in an explicit and peculiar manner, has committed it to the immediate Representatives of the people in Congress assembled.

This trust being rightfully, explicitly, confidentially, and constitutionally vested in the Representatives of the people in a Legislative capacity, hence, whatever a Senate may have done or recommended, in its capacity as a council to the Executive, in forming a Treaty that embraces any of the specific objects of legislation, they must concur in the grant in a Legislative capacity, or the grant will be invalid, they being a constituent branch of the Legislature. Having advised the contract, now acting in a Legislative capacity, they are truly in a delicate situation; and however wrong the advice they have given may now appear to them, they may not feel at liberty to recede.

However changes may have taken place in the constituent members, and in external circumstances, that may relieve the embarrassment, by death, resignation, or otherwise, the two-thirds of a majority may be reduced to a minority of 14 to 16. Policy and good conscience must govern those now acting as legislators, not according to the opinions of those in the council of the Executive, or of those who are dead, resigned, or now private men; but, according to the conviction of those who exercise the duty, power, and responsibility of legislators, governed by wisdom and caution.

This principle cannot impose on the present Senators an obligation, in Legislative capacity, to vote to execute a bad thing, because they, with others in a council of advisement, once thought it a good thing. In such cases, each member's conscientious opinion, maturely formed, must govern his vote.

The duty is the same in regard to the respective members of the House of Representatives, only that their situation is less delicate, not being authorized to relinquish any of their Legislative powers; such a dereliction would be a breach of public trust; nor, having been consulted relative to the grant, are at the most perfect liberty to exercise their discretion and judgment in relation to the fitness or unfitness of the stipulation or grant that is about to be made. And upon this construction is the excellence of the provision; for it relieves the Senators from the embarrassment of being altogether responsible for the consequences resulting from a bad stipulation or grant; each having a discretionary checking and corresponding power. Neither can retort on account of the distresses that may be incident to the grant or stipulation.

The contrary construction would not only impose an obligation upon the free agency of the most numerous and more immediate Representatives, but it would also lay a ground of complaint against the President and Senate, in which they must bear all the blame resulting from those mis-carriages. This would soon put an end to good

understanding and harmony with the two branches of Government. The contagion would catch the citizens; the immediate Representatives of the people, very justly to exonerate themselves, would fix all the evils arising from those stipulations, upon the Executive, with many more that had little relation to them; the consequence would be universal declamation and discontent, and a final want of confidence, resulting in a dissolution of Government. The Constitution has made the Legislature the only and sole organ to alienate the public revenue. The same principle is incident to the Legislative power of all Governments, all foreign Powers are bound to admit this, Great Britain, in a peculiar manner, is bound to respect this deposit of power, because the same thing exists in her system.

The Executive conductor of the United States has only an advisory duty upon the subject of alienations of the public revenue, or, indeed, on any other subject of Legislative operation. If he does not perform this advisory duty, the act of the Legislature is valid. If he does perform it, the only effect it can have is to increase the quorum which is requisite; two-thirds of the two Houses grant the money—that is to say, the Legislature does this or any other act of legislation, by the designated quorum, without the consent of the Executive, and even against his judgment and advice.

Nor does any evil result from this doctrine, as applied to the present case; for, if good reasons have operated to induce the Executive to make the stipulation, the same reasons, with the inconvenience of not completing it, will be more likely to induce the Legislature to make the grant either in America or England.

The language of the Constitution, in regard to granting money, is explicit, comprehensive, and unqualified; so it is concerning war; so it is concerning commerce. It is not silent so as to justify an idea that the Executive may grant the money, make the war, or regulate the trade. The Constitution is clear and full on this point, giving the power over them to a compound body, of which the PRESIDENT is no part; to which he stands in the relation of an adviser to a body which is the chief organ of all free Governments—the Legislature.

The nation, however, by this organ, can effectually give the money, make the war, or regulate the commerce. It is a peculiar felicity in this delicate and interesting debate, concerning which all express a desire to preserve the honor and happiness of the country, that in all respects involved in it, Great Britain and America are similarly circumstanced. Under this view, what pretext can Great Britain have to be dissatisfied with us, if we reject this Treaty? It must be acknowledged by her, that it was contemplated for mutual advantage; and if, on a revision, the reciprocity is doubted, and this fairly made known antecedent to an exchange of property, will not the good sense and honor of that nation commend us for our attachment to our national interest? Is it not the line of conduct that she has invariably

pursued, with respect to her own security? Most certainly, yes.

Then why is the alarm so loudly sounded by all the advocates of the resolution, and friends of the Treaty? If she means to be friendly, the trade will go on; she will repair the damages we have unjustly sustained; this will be done, if it corresponds with her interest, and further explanations and negotiations will be admitted. If she is disposed to be hostile, I would resent her disposition, but I never could find a greater aptitude to meet her on that ground than the present. Let her disposition be what it may, it shall not influence my judgment on the present occasion; but I shall conduct myself in that manner most likely to perpetuate independence.

But with respect to the Treaty, I shall not trespass upon the Committee by going into detail, as so many gentlemen had examined its exceptions; but would wish to be indulged in observing on one part that had been but slightly touched on by a worthy member from Virginia, [Mr. GILES,] the operation of which might be attended with more melancholy effects, particularly upon the citizens and State he had the honor to represent, than all the other exceptionable clauses contained in the instrument. He meant the 9th article; and that it might be the better understood, he would read it, as he conceived this a matter of the greatest consequence; and, although it had been previously read, he hoped the Committee would indulge him with bringing that clause once more immediately into their view. Mr. H. read the 9th article, which is a provision enabling aliens to hold lands in this country. He said this provision was contrary to the common Law of Nations, and ever thought dangerous and impolitic. Great Britain, in particular, never admitted the principle. It was there too well understood, by common consent, that it was never thought necessary to prohibit it by statute; and for what purpose shall the United States admit the principle? Is it because she should be less on her guard than other nations? Is it because her extent of country makes her more secure? Or is it because the realized property and the privileges attached in a Republic, are less worth preserving than in a Monarchy? So much on the general objection; but he had a peculiar and serious objection to the clause, as it might operate very oppressively upon the citizens of the State of North Carolina. Lord Grenville, previous to the Revolution, was legally possessed of a deed and absolute right in fee simple, held as a subject under the Crown of Great Britain, to a tract of land within the then Province of North Carolina, beginning at the sea shore, north latitude thirty-six degrees on the Virginia line, extending south one degree, and west to the farthest extent of the limits of the chartered rights of that Province, which was bounded by the Mississippi.

That the Earl Grenville had opened an office for the sale of said land, and had parcelled it out in small tracts to the citizens, and had conveyed to them by deed of conveyance, reserving a certain rent, with a clause of entry in failure of pay.

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These were the regulations until the death of the Earl, which might have been eight years previous to the Revolution; at which time the office necessarily was closed, until certain regulations were made relative to the heir, who was said to be a lunatic. However, no second office was created; the Revolution succeeded, and probably prevented any further adjustment.

After the State had assumed the sovereignty, sundry proclamations were issued notifying the owners of real property to come into the State and to join in the general defence, and common cause, or they should be considered as aliens. Sundry laws of confiscation were made, none of which could affect this title. The legal heir being incapable and absent, could not come within the meaning of any of the confiscation laws. But in 1777 or 1778 the State of North Carolina considering that, upon the general principle that aliens were incapable of holding lands, and that the original owner of that estate had become so by his absence, a conduct that was considered a dereliction of his title, opened an office indiscriminately for the sale of all the unappropriated lands within the respective counties of the State, and since have extended their offices in that direction to the Mississippi. This is a short statement of the progress made to realize all that property which, by conquest, so far as related to Earl Grenville's title, they had, by the Law of Nations, justly and meritoriously acquired; and now, without any reason shown, for the instrument is exceptionable, exclusive of this clause, shall this realized and valuable property be put at hazard? He did not positively say that this section would absolutely revive this title, but it appears dubiously constructed, and from a reference to the late determinations in the Federal Courts, it will be discovered that the decisions are in favor of Treaties and ancient claims.

He did not mean to say this was improper or unjust, or to throw an oblique censure on the Judiciary; but this being true, we ought to guard against doubtful construction; more especially where nothing is gained, and so much is at hazard. The value of that property could not be reimbursed by the ordinary revenues of the United States for fifty years to come. This being the case, it is beyond the reach of restitution; too much care cannot be taken to ward off the evil. If gentlemen would only consider the force of the words of the section—they are dubious in their nature, and made capable of attaching to them that construction, perhaps formed so in order to make them go down. Had they been explicit on that point, they could not have procured admission; but, as they are now artfully clothed, may produce the effect intended. And if this be possible, he conceived he would be unworthy of the high confidence reposed in him, if he did not with jealous and watchful eye, guard the realized property of his fellow-citizens. Gentlemen in favor of the resolution, uniformly call upon our candid impartiality, requesting us to divest ourselves of prejudice. The many salutations on that point, he considered as an implication on those

who were opposed to the resolution. What can authorize gentlemen to ascribe to themselves more candor, impartiality, order, love of Constitution or country, than we who think differently? He believed a scrutiny into their conduct would evince that their conception was unauthorized. He, therefore, thought those implications improper, and he could not but observe that, although we had taken exceptions, which were pointedly expressed by a gentleman from Virginia, last up, [Mr. MOORE], that, immediately after, a member from Pennsylvania [Mr. KITTERA] could not forbear. But that gentleman made use of these words to the considering part of this Committee. What is the implication that there is a part of this Committee not entitled by him to be thought candid? He did not think, when he saw that gentleman rise, that he could have been guilty of such indiscretion; but so it is, and uniformly has been; but, in future, he hoped this would be avoided. That each member would consider the others his brethren, equally candid, equally intending to support the Constitution, all aiming at the same thing—the independence and happiness of the country. This he would say for himself, and charity forbade him to think otherwise of others.

That whatever might be the result of his vote on this question, or on any other, he had no other object in view than to promote the happiness of his country, in which he would have only a common benefit with the rest of his fellow-citizens. It would be a lasting consolation, that could not be taken from him, that he had taken much pains to gain information on the subject, and that he had, in truth and candor, discharged his trust and duty.

Mr. FINDLEY said he had been misunderstood, and explained what he had before asserted.

Mr. SWANWICK objected that his colleague [Mr. KITTERA] had charged him with a want of candor. He was liable to mistake, he said, equally with any other man; but he trusted he should not be charged with knowingly misstating anything with respect to the East India trade; he had reserved to himself a future opportunity of speaking on that subject, which, however, the length of debate seemed likely to prevent. He had said that the American vessels were permitted to trade to the East Indies as all other nations were, but that they were obliged to land their goods in the United States, whilst the Danes, Swedes, &c., could go there and carry the goods which they purchased from thence to any part of the world, except to the British Dominions; and that was the situation of America antecedent to the present Treaty. A ship of his, some time ago, earned a good freight from Bengal to Ostend, and another he knew had lately made one to Hamburg; but by the Treaty before the House, whatever advantages might be made by going to a foreign port their vessels were deprived of, and must return direct to the ports of the United States. These, he said, were stipulations which no other nation lay under; and though perhaps no nation had special leave stipulated by Treaty to go there, yet they all nevertheless did go, and never met with any

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opposition. It was a courtesy which any nation might enjoy who took out hard dollars with which to make their purchases. Indeed, Mr. Dundas, lately said in the British House of Commons "that he had no objection that all nations should be admitted to trade to the East Indies." In some observations made by him on the 15th of April, 1798, to the East India Company, I find this remark:

"It is not disputed that foreign nations are entitled to carry on trade with our Indian possessions. These countries never have been nor can ever be held on the footing of Colonial possessions. And provided foreign nations trade with our Indian subjects upon their own capital, which they must do, if sufficient latitude is given to bring home their fortunes through the medium of legitimate trade. It is certainly a great advantage, and not a loss to the industry and population of our Indian territories that foreigners should exercise that trade."

But it was a peculiar restriction on us alone to be obliged to land what we purchased in the East Indies within the United States. He could not be certain, therefore, whether the liberty which was proposed to be granted to them by the Treaty would prove a real advantage or not. For during the war, at any rate, the courtesy would remain, and he saw little reason to apprehend that without any Treaty it would have been ever taken away.

He would remark that Great Britain had reserved to herself the right of countervailing the difference of duties in the East India goods, in British or American vessels, in her European ports.

Great Britain imagined that it will be the interest of our merchants, in ordinary times, to purchase East India goods in London, because they can have credit upon those goods from thence; for though credit may not be given at the East India sales, merchants of whom they purchase other goods will probably sell them East India goods in assortments, upon the same credit which is usually allowed upon other goods. When the difference betwixt eighteen months' credit and sending out hard dollars to the East Indies was considered, he believed the British market would be found as favorable as the East Indian. Now, if goods can be got equally as cheap from Great Britain, then, he thought he saw the motives for equalizing the duties in Europe, as it would enable British ships to bring these goods from thence to American ports upon terms equal with the American vessels, giving the East India Company an opportunity, if they chose it, to supply our markets themselves direct by this means. At present, ten per cent. difference was paid upon goods imported from Great Britain in American or British vessels. It was said Britain had the power before of equalizing duties; but by stipulating on our part not to increase duties on our side, we had given this power its perfect operation beyond the power of interference farther on our part. He was not, for all these reasons, able to view this article in the advantageous light in which it had struck other gentlemen.

The Committee now rose, had leave to sit again, and the House adjourned.

FRIDAY, April 22.

DEBT DUE BANK UNITED STATES.

Mr. W. SMITH informed the House that the committee appointed to wait upon the Directors of the Bank of the United States, to inquire whether it would be convenient for them to continue the money which they had advanced to Government in anticipations of the revenue, on loan, as usual, had directed him to move that the Committee of the Whole might be discharged from a farther consideration of the bill before it, providing in part for the payment of the debt due to the Bank of the United States, in order that it might be recommitted to the Committee of Ways and Means, to undergo some alterations, in consequence of the result of their inquiries. The Committee of the Whole was discharged, and the bill recommitted.

Mr. GOODHUE, from the Committee of Commerce and Manufactures, reported a bill for allowing compensation to officers in the Army for horses killed in battle; also, a bill for providing relief to distillers in certain cases, which were twice read, and committed to a Committee of the Whole on Monday.

The bill providing appropriations for defraying the expenses of carrying into effect the Treaty lately concluded with the Dey and Regency of Algiers, and the bill for making provision for the Revenue Cutters, were read a third time and passed. The blank in the former bill for the yearly allowance to be paid to Algiers, was filled up with 24,000 dollars.

Ordered, That the committee to whom was referred, on the eighth ultimo, the resolution relative to the contract entered into between the Government of the United States and John Cleves Symmes, be discharged from the consideration thereof; and that the said resolution be referred to the Attorney General, with instructions to examine the same, and report his opinion thereupon to the House.

EXECUTION OF BRITISH TREATY.

After the presentation of several petitions on this subject, the House resolved itself into a Committee of the Whole on the state of the Union, when the resolution for carrying into effect the British Treaty being under consideration—

Mr. CORR said, that the importance of the resolution before the Committee would preclude all necessity of apology for any member's asking their attention to his observations. He should only add to it, that he should endeavor not to repeat what had been already said.

He observed, that the discussion of the merits of the Treaty came before the Committee under peculiar disadvantages, for, besides the prejudices against it that might be supposed to have been caused by extraneous circumstances, the agitation of the important Constitutional question relative to the right of the Legislature to concur in giving validity to this Treaty, which was claimed to be valid and complete without that concurrence, and the refusal of a call for papers had very naturally a tendency to give a bias to the minds of some

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gentlemen against the Treaty; for himself, he was fully satisfied the Legislature had no Constitutional connexion with the business of making Treaties. When the resolution calling for papers was before the House, he had opposed it, because he supposed the papers could have no effect on such deliberations relative to the Treaty as would come before the House; still, after the call had been made, he hoped that the PRESIDENT would have sent the papers. This he would acknowledge, although conscious that, in expressing the sentiment, he should not have the approbation or concurrence of most of the gentlemen who voted with him on that occasion. He hoped the PRESIDENT would have sent the papers, because he believed that the principal part of the objections to the Treaty were founded in prejudice, and he believed those papers would have had a more powerful operation in removing the prejudices which existed against it than any arguments which could be used. His hopes that the PRESIDENT would send the papers were increased by a persuasion that those who wished the Treaty to be defeated at all events, although they had concurred in the vote calling for the papers, wished that the PRESIDENT would refuse them; still, he observed, that his consciousness of the PRESIDENT's better information on the subject, not to speak of his superior discernment, made him perfectly acquiesce in the refusal, and perfectly free to declare that (in his opinion) the PRESIDENT, in his refusal, had done what was right and for the best. These circumstances, he said, it would be agreed by every honest and by every candid mind, (it would illy become him to say there were any others but such in the House,) ought to have no effect in discussing the merits of the Treaty. Still, the human mind was liable to impressions which could not always be justified—sometimes hardly accounted for.

Mr. C. said he should attempt to run through the objections which had been made to the Treaty, and consider its merits independently of the peculiar circumstances under which it was now presented to the Committee, and then give his own view of it as relative to those peculiar circumstances.

The objects of the negotiation, he said, very naturally were divided into three parts—the inexecution of the Treaty of 1783; mutual complaints between the United States and Great Britain relative to transactions independent of the Treaty; and arrangements for the intercourse between the two nations, commercial and political. But as gentlemen had made their objections generally in the order in which the several articles of the Treaty had been arranged, he should follow the same order in his observations in answer to them.

The first objection which had been made was, that no compensation had been stipulated to the United States for the supposed breach of the Treaty of 1783, in carrying off the negroes. This objection, he had supposed, was so completely answered by his colleague, [Mr. HULLHOUSE,] who had been up the day before, that he should not have added on that head, but that he had since found

gentlemen still insisting on that objection. He was particularly surprised to hear the gentleman from Pennsylvania [Mr. FINDLEY] stating that he conceived the negro article to have been put into the Treaty expressly as a compensation or set-off for the engagement to pay the British debts. This pretension, he thought, had been fully refuted by the extract from Mr. Adams's journal, quoted by Mr. Jefferson in his correspondence with Mr. Hamilton, and which had been read by his colleague. From that extract it appeared that a claim for negroes and other property which had been plundered, carried off, and destroyed by the British, was made by our Commissioners, as a set-off against a claim made by the British Commissioners for restoration of confiscated estates; and that the one of those claims was abandoned with the other. Had the gentleman from Pennsylvania taken the pains to examine the journal of Mr. Adams, which might be seen by any member of the Committee at the office of the Secretary of State, he would have found how the article came to be inserted.

Before the *signing of the Treaties* with which the extract made by Mr. Jefferson is closed, stands in the original the history of this article in these words:

"Mr. Laurens said, there ought to be a stipulation that the British troops should carry off no negroes or other property, we all agreed. Mr. Oswald consented, and then the *Treaties* were signed," &c.

This, Mr. Corr said, was all the mention he could find respecting this article, except in a subsequent part of the same letter, in which Mr. Adams observes:

"I was very happy that Mr. L. came in, although it was the last day of the conferences, and wish he could have been sooner. His apprehension, notwithstanding his deplorable affliction under the recent loss of so excellent a son, is as quick, his judgment as sound, and his heart as firm as ever. He had an opportunity of examining the whole, and judging and approving; and the article which he caused to be inserted at the very last, that no property should be carried off, which would most probably in the multiplicity and hurry of affairs, have escaped us, was worth a longer journey, if that had been all, but his name and weight is added, which is of much greater consequence."

From these extracts, it appeared, the article was not a subject of negotiation, but inserted at the close of the transaction, without discussion, as a matter of course, and which Mr. Adams supposes might, in the multiplicity and hurry of affairs, have been omitted, if Mr. Laurens had not suggested it.

Mr. C. said, he would candidly acknowledge that it was very extraordinary to him that the construction which had been generally put on the article in America, should have so universally prevailed, if it was not the true one, that Congress should have adopted it; that such should have been the idea of the Commissioners appointed to superintend the embarkation at New York, in the year 1783. Still more extraordinary was it to him; to find Mr. Jay, himself, when Se-

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cretary for Foreign Affairs, in the year 1786, in a report he then made to Congress on the subject, considering the carrying off of those negroes as a violation of the Treaty, and saying further, that he understood from Mr. Adams, then at the Court of London, that the British Minister had no objections to making compensation for them. Still he believed, the true construction of the article was, that it was designed only to prevent plunder by the British troops, and carrying off of American property, according to the ordinary agreements in Treaties, which stipulate for the giving up of conquered countries. True, it might be asked, why say negroes or other property? The expression, he agreed, was not correct, unless a doubt might have been entertained whether negroes were property; but the word negroes must be qualified by other property, with which it is connected, and could operate only as if it had said, horses or other property, which no person would contend amounted to a stipulation not to carry off what had once been, but by the laws of war and nations, before the close of the war, had ceased to be property of the American inhabitants. Four gentlemen from Virginia had insisted on this objection, and not one of them had deigned to remark on the construction of the article itself. They had all relied upon the common understanding of it. That this understanding could not change the sense of the article, if it was not doubtful, could not be denied. Their leaving the article and resorting to the common understanding of it, he conceived to be a tacit acknowledgment of the gentlemen, that the instrument itself would not bear the construction they wished to give it.

Whether the negotiator had urged this construction of the article, and found he could not obtain its admission, or even an arbitration upon it, he did not know; from his opinion of the good sense and understanding of Mr. Jay, however, he was for himself satisfied that, whatever might have been his former opinions, on attending to the subject, he had found what had been called the American construction was not the just one, and had therefore abandoned it.

Mr. C. said, he was aware that the construction he contended for had been called the British construction, and *Camillus's* construction; that he had himself, however, adopted more than two years ago, the first time he had paid any attention to the article, upon no other impulse or authority than his own judgment, on the perusal of it and even before he had ever heard of any other construction of it than that he contended against, he was aware that there was a kind of patriotism which claimed every thing for one's country, whether consistently with truth, justice, and candor or not; for himself, he had no pretensions to such patriotism. He believed Mr. Jay had none, and if he was convinced that the American construction of this article was unfounded, he thought it for his honor, and the honor of this country, that he had abandoned it.

The second article of the Treaty was objected to, because of the stipulations contained in it in

favor of the British subjects inhabiting the posts. Mr. C. begged gentlemen would state what they would conceive it for the honor and interest of the United States to do with those people, if the Treaty had said nothing about them; he thought it could not be contended by any person that their condition was varied by this Treaty from what it would have been on a surrender of the posts, on the terms of the Treaty of 1783, and under the present laws of the United States. Of what, then, did gentlemen complain? That they were restrained from banishing them or stripping them of their property by future laws? He had too good an opinion of the generosity and magnanimity of the gentlemen who objected to the article, to think they wished for this, and believed that they objected to the article only from a cursory view of it, and because they had not attended to the mighty little difference made in the condition of those people by the stipulations of the Treaty. They were to retain property; so they might do without the Treaty; they might remain British subjects, or become citizens of the United States; so they might without the Treaty: their property is to descend to their heirs. Here only is a variance from existing laws, if such be the unreasonable law of alienage in this country, that when a man honestly owning land dies in this country, if he is a foreigner, he cannot transmit it to his heirs. He thought, however, no person would object to this.

These were his conceptions of the subject, and until he found gentlemen stating some other difference between the condition of these people on the terms of the Treaty of 1783 and the present Treaty, he must think their objections to the stipulations in this article wholly unfounded.

The delivery of the posts had been connected with the third article, which regulates the terms of intercourse between the United States and the British Colonies adjoining. He confessed he had no particular knowledge of the country, and could judge of the merits of the article only on general principles, but on those principles the regulations respecting that intercourse appeared to him perfectly fair, just, and reciprocal, and the least that could be made for mutual benefit. No gentleman had undertaken to point out on what principles they would have the intercourse regulated. Having a bordering country of between twenty and thirty degrees of latitude in extent, he asked, if it were better to have a jealous system of mutual restriction preserved through that extent, or to let people come and go from one country to the other as they pleased? It is stipulated that the intercourse shall be free, the inland navigation common to both parties, and that all goods not prohibited to be imported absolutely into either country may be imported from the other, on the same terms as they are imported directly from the Atlantic. It appeared to him idle to inquire, which country would derive most advantage from the intercourse; by the account given of the Canada trade by two gentlemen from New York, who had spoken on the subject, [Mr. WILLIAMS and Mr. COOPER] and who ap-

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peared to be extremely well acquainted with it, as well as from the great numbers of people, the enterprise, and their industry and capital, which the United States possessed, he believed they would derive the greatest advantage; but whether they or the British were to derive the greatest, he conceived scarcely worth inquiry, as a system of free intercourse could not fail to be beneficial to both countries. It should be remarked, that for a great part of the extent between the United States and the British Colonies, the boundary line was in the middle of navigable waters. If a jealous regard was to be had to this boundary, it must be a source of perpetual controversy between the nations. Now, that navigation being declared free and common to each to take the benefit of the whole extent of it, and all ground for jealousy and contention in its use was removed.

The Mississippi article has been objected to, but it only recognizes the principle established in the Treaty of 1783, that its navigation shall be common to both parties, and agrees that the ports on the eastern side shall be free to both. This, as to our ports, if any part of our country on that river might be so denominated, was only placing them on the same footing that our Atlantic ports stand on with reference to foreigners; and he conceived there could be no reasons why the people living on those waters, so far as the nature of their situation admitted, should be placed on a worse.

The sixth article, which provides for the payment of the British debts, had been a subject of much clamor. It had been declared to be an interference with the Judiciary, if the Commissioners were to decide against the debtors. This would certainly be an insurmountable objection; but this was wholly out of their province; they are only to decide against the United States, to determine what impediment they have placed in the way of the recovery of those debts, or have suffered so to be placed, and to say what sum in damages they shall pay for their violation of the Treaty of 1783—a subject of inquiry wholly out of the province of the Judiciary. As to the amount of those debts, he had not been able to pay much attention to the consideration of it. There seemed to him, on this occasion, in the gentleman from Virginia, who might perhaps fairly claim to know as much about it as any body, a very great disposition to exaggerate it; but if the United States had stipulated by Treaty that no impediment should be placed in the way of their recovery, and, in violation of their stipulation, such impediments had been suffered to take place, justice required that they should make good what had been suffered in consequence of the violation. It had been mentioned as taking on themselves a load of debt which was not their own. This was the misfortune of the United States, and the fault of those States who had caused these legal impediments; it was not the fault of the Treaty. The Treaty did not adopt those debts; on principles of justice and good faith, they had become the debts of the United

States, so soon, as by a violation of their contract, they had rendered them uncollectable from the original debtors; the Treaty only provides for the liquidation of a demand against the United States which justice had fixed on them before.

The mode of appointing the Commissioners, too, for this purpose, and for adjusting our claim for spoiliations, had been objected to, and a gentleman from Virginia had denominated it a throwing up of cross and pile; but what mode would the gentleman be satisfied with? If we might have the appointment of the fifth, or of all the Commissioners, it would doubtless be more agreeable to the United States; but since that could not be expected, he could conceive of no mode fairer, in case the parties could not agree, than an appointment by lot.

When national controversies were subsisting, respecting the adjustment of which they could not agree, relinquishment of their demands on the one side or the other, arbitration or arms were the only alternatives; important controversies were subsisting between the United States and Great Britain respecting which they could not agree. Neither of them could with honor relinquish their claims; by the Treaty, the alternative of arbitration has been agreed on, and as he believed, to the honor and interest of both the nations.

Strange objections, he said, had been made to the ninth article, it having been considered as reviving claims to land, which had been extinguished. He conceived it as intended only to explain a subject which had been left undefined by the Treaty of 1783. There was no stipulation in that Treaty respecting the holding of lands, then owned by citizens of the United States in Great Britain, and by British subjects in the United States; a doctrine generally held in both countries was, that aliens could not hold lands; but the alienage effected by the separation of the two countries was of a kind not calculated for in the legal ideas of either country, as the lands, however, were well vested originally, and the alienage of the proprietors effected without their fault, it had not, he believed, on either side of the water, been contended that it worked an escheat or forfeiture of the lands; still it had been held by surveyors in both countries, that on the death of the proprietors, those lands could not descend to his heirs, being aliens, and to remedy this difficulty alone, he conceived, the article was intended, applying only to those who now hold lands, in its very terms. It would be absurd to say, that it revived or created titles which did not now exist, and its operation on the scale he contended for, had not been, and, he believed, could not be, objected to.

Much objection had been made to the tenth article; it had been considered as a censure on the House of Representatives; but this objection was certainly without foundation. A plan for sequestrating British debts, it was true, had been before the House, but no opinion of the House had been expressed upon it.

It was considered as one of the best weapons of

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defence which this country could command, still gentlemen who objected to the article, agreed that it was a weapon they would resort to only in cases of the most extreme necessity. He believed if they would pursue a plan of sequestration, in all its consequences, they would be satisfied it ought never to be resorted to; and that, in declaring she would never sequester debts, America had made no sacrifice. It must generate infinite frauds amongst the debtors on whom the public must call to pay. It would be an inducement to fraudulent debtors, to excite hostility between the two countries, they expecting to find a more favorable creditor in the public Treasury than in their original creditors. The admission of the rectitude of sequestration must operate as a poison to the public and private credit of a nation, and a measure of this kind once adopted in the progress of a war, must prove a very difficult bar in the way of negotiations for peace.

If, however, there should ever be an occasion in which good policy would lead this country to wish itself free to resort to this measure, it was perhaps hardly conceivable, but it must be in consequence of a breach of some of the stipulations of the Treaty in question, and, in, this case, the Treaty being broken by Great Britain, we on our part, should be free from it, and have the same right to resort to the measure of sequestration, as if no such stipulation about it had been in the Treaty.

It was said, there was no reciprocity in the article, the quantity of debt in all probability to be within our power of confiscation or sequestration, exceeding far what would be in their hands; but besides the advantage to be calculated on by us in the articles rendering our credit better, there was another article in the Treaty which might be considered as a counter-balance for this; by the 22d article it is stipulated, that no letters-of-marque shall be issued without previous complaint of the cause for issuing, and refusal of compensation. The British having a naval force that we have not, it has been said, have the power to sweep the ocean of an immense property, which the merchants of the United States have always floating there, as a first stroke at a war, and before we have any notice to withdraw from their power. This article secures that notice. Mr. C. said, he must acknowledge, that the force of this consideration was lessened by the article being only temporary. He did not see a reason why it was not among the permanent ones. It appeared to him that it ought to have been. Indeed, he would declare that it was the only circumstance, though he should not contend that it was very important in the Treaty, notwithstanding all that had been said against it, which appeared to him fairly liable to objection.

The twelfth article did not now belong to the Treaty, yet a gentleman from Virginia [Mr. GILES] could not pass it, without an observation that it had been considered as a boon, opening the West India Trade, and that, as the Treaty was no better for the United States than it ought to have been with that article, when it was out, the Treaty

must, of course, be a bad bargain to them; but the gentleman did not consider, that there was a stipulation in the article which was no boon on our side, that certain articles should not be exported from the West Indies. The Senate considered the article as worse than nothing, and therefore rejected it. In their opinion, therefore, and in the opinion, he believed, of most people, the Treaty must be considered better for the United States without than with this article.

Much had been said respecting the East India article. To determine of how much value it might be to the United States, he conceived, required more skill in mercantile operations and in future events than was possessed by any gentleman of the Committee; but to determine that it was an advantageous article for them, he conceived, could require skill in neither of these respects. So long as the necessities or interest of the British will induce them to give as great or greater license to the trade of the United States in the East Indies than is secured by the article, it can be of no advantage, except that its permanency may be calculated on. It does not prevent their giving a greater license, if their interest led them to it; and, although a gentleman from Virginia [Mr. GILES] declared the article to be worse than nothing, because he had rather have the license from the necessities of the British than from their courtesy; although there might be something of point and wit in the observation, he surely could not consider it as an argument, since the courtesy did not remove the necessity, and it would not be contended that it lessened it. It is true, we stipulate that India goods taken from the British East Indies shall be brought to America; but, without this stipulation, would not the British have been free to make that a condition of our receiving them there if they pleased?

Did the Treaty contain a stipulation that the United States should send a certain number of vessels to the East Indies, or certain specific cargoes? He might want the commercial knowledge of the gentleman from Pennsylvania, [Mr. SWANWICK,] who had said so much about this article, to assist him in forming his judgment about it; but as he had found no such stipulation, he could derive no information from that gentleman's observations, and must think he had better have reserved them for his counting-house.

It had been objected to the fifteenth article, which stipulates that no higher duties shall be paid by ships and merchandise by the British and the United States, reciprocally, than is paid by other nations, &c.; that it contained only an appearance of reciprocity. Gentlemen seemed to have considered all the increase of the navigation of the United States, and all the prosperity which had attended them since the establishment of the present Government, as owing to the difference which has been established between American and foreign tonnage, and these advantages were now wholly removed, because the British can countervail this difference, and we cannot extend it further. For himself, he apprehended they attributed more of this prosperity to that source

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than was due to it; he believed the British were not restrained from countervailing our duties before the Treaty, because they were afraid of our going beyond them; and he much doubted if they would not think it worth while to attempt the countervail. At all events, it was but a matter of experiment; the article was to fall at the end of two years after the present war, and would not be renewed by us if, on experiment, we found it to our disadvantage.

The seventeenth article was complained of as having surrendered the point of free ships making free goods. Probably the negotiator had attempted the establishment of this point, but what pretence had he for insisting on it, if the British refused? The Law of Nations, it is acknowledged, establishes the contrary doctrine. This the United States have acknowledged in all their proceedings with the belligerent Powers relative to the subject during the present war, and Mr. Jefferson, in his correspondence relative to Mr. Genet's pretensions, has very ably and clearly evinced the doctrine that free ships does not make free goods to be the Law of Nations, and that we have no pretensions to insist on the contrary, unless with nations who have made Treaties with us to that effect. The article, then, must be considered as leaving the Law of Nations as it found it, stipulating only that the power of stopping our vessels having enemies' property on board, shall be exercised with as little inconvenience as may be.

The contraband list has been complained of; but this is not carried so far as the Law of Nations carries it, nor so far as it is carried by some Treaties; and in that part of the article which relates to provisions and other things, which, under particular circumstances, though not generally so, become contraband by the Law of Nations, there is a stipulation highly favorable to the United States, such articles not being to be confiscated, but to be taken and paid for.

The twenty-first article has been glanced at; but as similar stipulations are contained in most of the Treaties which the United States have with foreign nations, the objections against it have not been much insisted on.

The twenty-third, twenty-fourth, and twenty-fifth articles had been objected to by a gentleman from Virginia [Mr. GILES] as *grazing* on the Treaty with France. Another expression used by that gentleman was, that they were articles *constructive* of the French Treaty. Had those articles been constructive of the French Treaty, in doubtful points and to its disadvantage, he should have agreed with the gentleman that they were highly objectionable; but this was not the case. The gentleman himself had not attempted a construction of the French Treaty which would militate with them; he believed that he was conscious that it would not bear it. The French nation themselves had given it a construction which clearly shows that it is no way affected by this Treaty, for they made a Treaty with the British nation in the year 1786, long after the Treaty they made with the United States, which contains precisely the same stipulations which the

gentleman had considered as *grazing* on the French Treaty. Had there been a doubt as to the construction of the articles referred to in the French Treaty with the United States, this Treaty of theirs with Great Britain must incontrovertibly have removed it.

Mr. C. said that he believed he had noticed most of the objections which had been insisted on against the Treaty, and he declared that it appeared to him as if it were merely a question of speculation before the Committee; or were they discussing certain propositions which were to form the basis of instructions for negotiating a Treaty with Great Britain? He should consider the Treaty a good one, and such as it would be for the honor and interest of the United States to adopt. He considered the permanent articles as important, because they settled, on terms consistent with national honor and advantage, causes of dispute which, while they existed, would always endanger the peace of the nation. They acquired the posts, which were agreed by all to be an object of consequence, as they affected our interest, our peace, and our honor, and they settled certain important points of national intercourse on terms which he conceived reciprocal and mutually advantageous. As to the commercial articles—indeed, all the articles which were not permanent—they were comparatively of little importance. Those, however, when the present ferment should have cooled down, he believed would not be considered as disadvantageous to the United States. He did not pretend to say that the Treaty was such as he could have *wished* it, nor such as our national partiality would have dictated, had we been the sole dictators of the terms; but, could some fair and impartial tribunal have been formed to hear the mutual complaints and pretensions of the two nations, and vested with the power to dictate such a Treaty as should have appeared to it reasonable for the two nations to adopt, he did not believe it would have dictated one more favorable to the United States.

General and vague objections of want of reciprocity and leading to the establishment of British influence, had been made; but he could see nothing of this in the Treaty. He saw no political ties in the Treaty, and he wished none with any nation. Peace with all the world, and as free a commerce as could be obtained, he believed ought to be the leading objects of the United States in all their foreign relations.

Thus far he had considered the Treaty only as if it were before the Committee, merely on the question of its expediency, from its contents, without reference to its ratification by the PRESIDENT, with the advice and consent of the Senate; from this circumstance, even granting there were great force in the objections made to the merits of the instrument, very weighty considerations were to be observed, which should influence the Committee in the vote they should pass on the resolution before them.

It was true, he said, the House had determined that, although the PRESIDENT, with the advice and consent of the Senate, have the power to *make*

Treaties, the House of Representatives are to exercise their discretion in judging of the expediency of carrying them into effect; yet they had not gone so far, though the gentleman from Virginia [Mr. GILES] seemed to wish them to do it, so as to declare they would consider themselves as perfectly at liberty to refuse their aid to carry a Treaty into effect, although made by the PRESIDENT and Senate, as they would be to reject a bill which had been passed by the Senate; in this case, no one could pretend but the House had the same freedom to pass or reject the bill as if it were reported to them from a committee or brought in on leave of the House by a member. He asked if gentlemen could be serious in such pretensions? The PRESIDENT and Senate are to *make* Treaties; yet a certain mysterious power is reserved in the Constitution, behind the curtain, as it were, which is to declare them, and make them, as if they had *not been made*; and the foreign nation with whom a Treaty has been made by the PRESIDENT, and to whom he has declared that it shall be executed with punctuality and good faith, is to be told this is a mere Treaty in negotiation; you have no claims on us for the fulfilment of it. We will treat with you for a new Treaty if you think proper; but this, although you call it a Treaty, is not such. He would like to see the gentleman from Virginia, [Mr. MADISON,] who had so ably advocated the construction of the Constitution by which Treaties are to be considered as only begun, after they are *made*, wrapt in his mantle of doubts and problems, and going on a mission to the Court of London to clear up the business; for he presumed no gentleman would question but it would merit the sending an Ambassador Extraordinary, and he could not think any person fitter than that gentleman could be found. High as was his respect for that gentleman's abilities, he feared, however, that they would prove incompetent to the task, even if aided with a collection now making of the speeches in the House of Representatives on the Treaty question. And however gentlemen might declare the construction of our Constitution must lie with ourselves, if in our negotiation with the world, we did not so contrive it as to be consistent with reason and the common sense of mankind, and by such a construction evince to them that we were not bound by this Treaty, they must consider us a faithless nation—a vote of the House of Representatives against the sense of the PRESIDENT, Senate, and a great proportion of the American people, and against all former practice on our Constitution, could not be expected to remove the impression.

Gentlemen had treated all considerations foreign to the merits of the Treaty as unworthy the attention of the Committee; but it certainly was proper to inquire what would be the situation of the country in case the Treaty should be rejected. He conceived it would be nearly ascertained, by a recurrence to the state of things at the time the negotiator of this Treaty was appointed. A general irritation prevailed throughout the country for injuries sustained from the British nation, and

a general alarm existed that the United States were on the eve of a war. To obtain redress for those injuries, sequestration, commercial restrictions, and regulations, with a stoppage of intercourse, were agitated in the House of Representatives, and if the Treaty should be defeated, would probably be resorted to again; though not amounting directly to war, he believed when those measures were proposed, that they would infallibly lead to it; and although in the House of Representatives they were by the advocates of them declared to be the most peaceable and conciliating things in the world, yet they were universally admired by all out of doors who wished for war. It would be natural, if this Treaty is not carried into effect, to resort to the same measures again, for it is hardly to be expected that the American people are going to sit down quietly, and without compensations, under the injuries they have sustained. It would be absurd to think of further negotiation; and when the causes of irritation which before existed, and had nearly brought those two nations into a war, have added to them the dissatisfaction that must be expected to result from our failing to fulfil the stipulations of this Treaty, he thought they could not fail to produce it.

It had been said that the interest of Great Britain would not permit them to go to war with the United States, and the United States surely would not begin it. But, he asked, what wars were begun or carried on upon cool calculations of interest? It was passion, pride, and ambition, not interest, which generally brought on wars; and, under present circumstances, he believed the United States more likely to commence declared hostilities against Great Britain, than Great Britain against them; at no time could it be said there was no chance of a war, when causes of national controversy, however insignificant, were subsisting. The consequences of war in general, might be calculated at a certain loss of blood and treasure; but, in the infancy of the United States, divided as they must be on the principles of the war, if they should be forced into one in consequence of a rejection of the Treaty, he considered the probable evils of it to be incalculable, and could, for himself, presage nothing less than a dissolution of their Government.

In every point of view which he could consider the subject, he must view the Committee as urged by the strongest motives to adopt the resolution. If the Treaty was to be considered merely as in proposition, it afforded to them an honorable adjustment of national controversies, which, so long as they remained unadjusted, must endanger the peace of the country; and, from this consideration alone, if there were no other advantages to be expected from it, promising important benefits to the United States.

But far more powerful considerations were derived from considering that, by the Supreme Executive of the United States, and by the Senate, the faith of the nation had been pledged, and would in spite of all the metaphysical subtleties which had been brought forward in the House of Representatives, be considered as violated, if the Trea-

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ty were rejected, by foreign nations in general, and a great part of the people of America.

So strong was the connection, in his mind, between the execution of the Treaty and the faith, the honor, and happiness of the United States, he had no doubt the Committee would agree to the resolution.

When Mr. Coir had concluded—

Mr. S. SMITH rose and said, the subject then before the Committee appeared to him to be of an importance at least equal to the great Constitutional question which agitated the House during the present session; it has had, and he trusted would continue to have, the same calm attention paid to its discussion. He hoped and expected that it would ultimately be determined with a view to the real interest of the nation, under the existing state of things.

The question is, whether we shall confirm, by an act of this House, the Treaty made by the constituted authority with Great Britain; or whether, having the declared right so to do, we shall refuse to make the appropriations necessary to carry the same into effect? The apprehension lest the Treaty should be carried into effect, has alarmed the public mind. Some are seriously concerned on account of evils that they apprehended might result therefrom; others affect an extraordinary concern, and, like the alarmists of England, run about everywhere disseminating their ill-founded fears. He said that his constituents had taken up the subject: a small part have thought it advisable to instruct him to employ his best endeavors to obtain the necessary appropriations; another part, equally respectable and more numerous, have expressed their wish that he would exercise his own discretion on the present great occasion, and that they will cheerfully acquiesce (as good citizens ought to do) in whatever may be the decision of the national Representatives, after a free discussion of the principles of our Government and the interests of the nation. In paying respect to the latter, he should perhaps give satisfaction to the former.

When the Treaty was first published he had read it with attention, and although he had not seen all those faults with which it has since been charged, yet there was, to his view, so little good contained in it, and so much of evil to be apprehended from it, that he had felt a hope that the PRESIDENT would not have ratified it. He had been disappointed, yet he had not a doubt but the PRESIDENT, after the most mature consideration, had given his signature; being possessed, as he was, of every information relative to a subject so very important, he could better determine on the policy of its adoption than those who were less informed. Still there were many articles, particularly the commercial, which every man might judge of from the face of the instrument. On these he did not hesitate to give an opinion: which was, that they promise not one solitary advantage, and shackle our commerce in many important points. He would not trouble the Committee with going deeply into a subject that has already been so ably discussed. He, however,

could not refrain from a few remarks on the right to countervail our extra duties on tonnage of goods imported in foreign bottoms. He asked, what would this countervail be? Could any man tell? It was not specified in the article; it was then discretionary with the British; discretionary with a nation whose rule of right has always been the measure of its power, whose conduct has invariably been to cramp and distress the commerce of all other nations. To such a nation was it proper to trust a latitude of that extent? Will she make her countervail oppressive and unjust? It is more than probable she will, and if she should what remedy have we? None; for we are forbidden by the same article to legislate further on the subject.

He said he would take leave to explain the 13th article, which relates to the East India trade, and which it has been said gives such solid advantage as to counterbalance all the evils arising out of the Treaty. He had taken some pains to inform himself on this subject, and he had found that the Americans, in common with all other nations, traded to the British and other ports of India, and were everywhere received with that sort of kindness which grows out of the interest that the vender has in selling his goods for ready money, and to a great profit; that our trade is so much the interest of the India Company, and of all its officers and factors, as well as of the private traders residing there; that it was ridiculous to suppose the India Company would prevent it; and, if they should, what would be the evil? Little or none; for there were other ports, belonging either to other European Powers or to the natives, in the neighborhood of all the English ports, who would receive us with open arms, and supply us for our silver, on terms equal, or nearly so. He then stated that our ships could now carry from one port in India to another, to China, or to Europe; an employment that had been found very lucrative. Under the Treaty, they must proceed with whatever they purchase in an English port direct to America. The article says, His Majesty consents to your trade to India, and this is called a boon. It appeared to him just as ridiculous as if His Majesty had said he consented to our going to Great Britain to purchase its manufactures.

To enumerate the many faults he found with the Treaty, as well of omission as commission, would take up too much of their precious time; yet he trusted he should be excused for taking a short view of its leading features.

When the Envoy was sent to Great Britain, he was principally to demand restitution for the cruel depredations committed on our commerce. We find that object attended to so vaguely that our best informed men seem doubtful whether much will ever be recovered under the Treaty; they find that in every instance the loser must first pursue his remedy through their tedious and expensive Courts. We find, that by fair construction, we have acknowledged ourselves to have been the infractors of the Treaty of Peace; for what was the ground on which some of the States placed legal impediments to the recovery of Bri-

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tish debts? Why, that Lord Dorchester had refused to deliver up or pay for the negroes which, by that Treaty, ought to have been restored, and which slaves would have assisted their masters by their labor to pay those debts; yet we see no mention of them in the Treaty; and we find to our surprise, men, since this Treaty, defending the construction lately put on the Treaty of Peace by the British, and which had never before been heard of; thus acquiescing in the charge of our being the first aggressors. But this only relates to our honor, and of course can be of little consequence to a nation whose rule of conduct is to submit to every thing, provided that on the whole account there appears to be a balance of profit in its favor.

After having thus formed his opinion relative to the Treaty, his next inquiry was, is the Treaty Constitutional? On that point he had held himself open to conviction, and waited its discussion. He had not heard any gentleman declare it unconstitutional, except one, [Mr. PAGE,] who seemed to give his opinion as if he still doubted; and having carefully considered the subject, he was now of opinion that there was nothing directly repugnant to the Constitution in the instrument. He then inquired whether, under the existing state of things the Treaty ought to be rejected? Whether it contained stipulations so extremely injurious to the United States as ought to induce the House of Representatives to reject a compact made by the other branches of the Government? In the ten first articles, which are permanent, he found some objections. The third article, which, like many others, cannot be well understood, seems to say that goods imported in British bottoms to the ports of the Lakes, shall pay extra duty. If this be a true construction, it will then be necessary to repeal our restraining duties, to make the Treaty by law consistent with the Constitution, which requires that all duties shall be equal. The tenth article ties our hands against sequestration, a power which ought not to be exercised, except on some very extraordinary occasions; yet it was a power which, considering our relative situation to Great Britain, it was imprudent to part with; still, on fair consideration, he did not find that there was sufficient cause, on the account, to reject the Treaty, in the situation we are now placed. The residue will expire in two or three years.

He would say a few words on the 18th and 24th articles. The 18th, commonly known as the provision article, he had not understood as giving the British a right to seize our vessels carrying provisions; but the King of Great Britain having, after the Treaty had been signed by Grenville and Jay, issued an order to that effect, it seemed a comment upon and as establishing his construction of the article. However, as he has withdrawn that order since the ratification, and as it was now under negotiation, he would hope that the explanation would be to our satisfaction. The 24th article altered the state of things with respect to France. Heretofore the French had (not by Treaty, but under the Laws of Nations) a right in which we acquiesced, to sell their prizes. By this article

they will be prevented; and should a war take place between England and Spain, which is not improbable, then the former will, under this Treaty, have a right to bring their prizes into port, and, under the Laws of Nations and our usage, to sell them, while all her enemies are prevented from selling. What would be the consequence? Why, that your ports would swarm with British ships of war and privateers, on board of whom your seamen would embark, in spite of every opposition. Good policy will therefore dictate that a law should pass to prevent the sale of the prizes of all nations within our ports.

Mr. S. then stated that notwithstanding the many objections he had to the Treaty, yet he would give his consent to carry it into effect in a Constitutional manner: Not because he thought that war would ensue in case of its rejection; not because the underwriters have refused to write any more against the sea risk; not because the merchants pretend they are afraid to pursue their usual commerce; not because of the frivolous report that the Chargé d'Affairs of Great Britain had threatened that the posts would not be given up unless the appropriations were made—a report which he hoped and believed to be unfounded. He added that he could not believe that any gentleman could be in earnest in the opinion that a war with Great Britain would ensue in case of refusal. To what purpose would they deprive themselves of their best customers? Nobody can contemplate that they would invade our territory. It is true that they might sweep the ocean of a great part of our ships, but would that be an equivalent for the loss of our trade, or the risk they would run of losing Canada? The idea of war seemed to him to be too ridiculous to be mentioned in that House—could be intended only to alarm the public mind, and ought to be treated with contempt.

But there was good ground to fear, that if the Treaty was rejected, the British Courts of Appeals, which are generally directed by the Minister, would confirm the decrees made against our property in their Colonial Courts; and that the Bermudians and others would speculate on the possibility of a war, seize our vessels everywhere, and that their Judges would continue to condemn as heretofore, without law or justice.

Merchants again pursue their business, and they, as well as the underwriters, will be ashamed of the attempt made to influence the votes of the House of Representatives; for are not those the very men whom we have seen reprobating the conduct of the Democratic Societies? And will they, on mature reflection, who have reprobated the Democratic committees of correspondence, believe that it was proper to institute committees of correspondence to influence the merchants and traders of the Union, in opposition to the House of Representatives? He felt assured (from the knowledge he had of that House) that as they would not be influenced by such conduct to vote for the measure, neither would they be induced to vote against it because of those just subjects of irritation. Our duty to our constituents taught us that we were

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the Representatives of their interests, and not of our own passions.

For none of those reasons, he repeated, did he give his consent; but, because he did believe that it would tend to restore harmony and unanimity to our public measures; a House so nearly divided against itself could never thrive: Because the most material articles will expire in two or three years; and, from the great and serious opposition to them, as well among the people, as in this House, he did not believe they would ever again be renewed: Because, he did believe that the President and Senate had conceived that they had a right to make all Treaties, without the concurrence of this House, and had, under that impression, committed the faith of the nation: and, because, that he believed it to be the opinion of the great majority of the people of Maryland, whom he had the honor to represent, that, although their dislike to the Treaty continues, yet that less evils will grow out of its adoption than may be apprehended from its rejection. A reason, to his mind, superior to all others, and which, although he had not been of a similar opinion, ought and certainly would have governed in the present great and important question.

Mr. ISAAC SMITH addressed the Chair as follows—

Mr. Chairman: I wish to make some observations on this occasion, and I promise the Committee they shall neither be many nor long.

There appear to be two objects in the debates that have so long engaged the attention of this House: 1st. Our right to interfere in making and sanctioning Treaties; 2d. To nullify the Treaty pretended to be made betwixt this country and Great Britain.

As to the first, this House has established the principle as far as it can establish it; we have voted it, we have resolved it, and we have placed our resolutions on our own Journals: however, it will be liable to that instability which always attends constructive opinions, and will vibrate backwards and forwards as public opinion may ebb and flow at future elections. There is only one way to fix it, and the Constitution has pointed out that way. I hope it will not be thought necessary to exemplify the force of this principle by rejecting the Treaty now under consideration.

The Treaty is said to be a bad one. I do not think, myself, that it is unexceptionable—the sun has dark spots in it: but I really think, upon the whole, it is a good one, and ought to be adopted, for the following reasons:

We shall obtain the Western posts, and secure peace with the Indians. This we know, from sorrowful experience, is worth a million and a half per annum, allowing scalping and murdering to go for nothing.

In the next place, we shall have an opportunity of settling all our extensive boundaries, in an amicable and permanent manner. I cannot even conjecture the value of this; perhaps no man can tell.

In three years we may permit it to die in peace, if we choose, and then all its sins and imperfec-

tions will be at an end; but, in the meantime, we secure the grand and invaluable objects before enumerated. How very bad indeed a Treaty must it be, that would justify the rejection of such advantages rather than adopt it!

What will be the probable consequences of the rejection? It cannot be concealed that the mere apprehension that this may be the case, has shocked, like a stroke of electricity, the commercial part of our citizens, as far as the alarm has had time to extend, and paralyzed the extensive and prosperous exertions of trade. A solemn and anxious pause, foreboding some important event, pervades the community at large. Let us also pause. The moment is big with events. The Rubicon is close before us. If, like Cæsar, in a state of doubt and desperation, we plunge in, like Cæsar, we may destroy a glorious Republic.

I am neither timid nor prophetic; yet, certainly I do apprehend injury from Britain. Her superabounding pride has always been an overmatch for her prudence, and even her interest, in all her conduct relative to America. She has not, perhaps she cannot, forgive us the mischiefs she has already occasioned us. Nevertheless, let not our hatred of her past conduct, nor our provocations at her present behavior, nor the love of victory in debate, influence our sober judgment on this solemn occasion. We are a deliberative body; politicians should have no passions; reason should be our guide; reason is a cool thing; heat it and you destroy it.

Mr. HENDERSON.—Mr. Chairman: It is with diffidence that I rise to take part in the discussion of the question now before the Committee, and to offer my sentiments upon a subject of such importance as the one under consideration—a subject, to my mind, of the greatest importance that has ever been discussed since the establishment of the present Government—a subject, upon the result of which may depend whether our Constitution will be preserved inviolate, or will be infringed—a subject in which public faith, with a foreign nation, is not only implicated, but pledged, and in danger of being prostrated—and upon the determination of which may possibly be the event of war abroad and dissension at home. Sir, upon a question of this magnitude, I could not reconcile it to my sense of the duty I owe my country to give a silent vote.

When the debates first took place relative to the Constitutional Treaty-making power, and the power of this House to control that power, I was silent, from an opinion that the discussion took place before the due season, and that it was only a profusion of time, expecting, when the Treaty negotiated with Great Britain was taken under consideration, that a more proper opportunity would be afforded for offering my sentiments upon the subject. That time is now before me. Sir, I am in favor of the resolution under deliberation, and hope that it will be adopted. It is to make the necessary provision for carrying into operation the Treaty that has been negotiated with Great Britain. It is, in my opinion, making provision for the support of the honor, of the faith of the

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nation. I do not mean, sir, to go into a consideration and detail of the merits or demerits of that Treaty, article by article, as some gentlemen have done. I will not say that I approve or disapprove of all the parts thereof; I will only observe, in this place, that the Treaty has been made by the proper Constitutional authority constituted for that purpose, and that it has become the law of the land; that, in my opinion, there are no prominent features of such a dangerous, degrading, and destructive nature exhibited upon the face of it as would justify this House in rejecting it, and that the public peace and happiness will be much more essentially promoted by carrying it into operation, than by arresting the progress thereof.

Sir, as much has been said on a former occasion upon the Constitutional Treaty making power, and the power of this House relative thereto; and as the subject has not passed unnoticed in the present discussion, I will beg the indulgence of the Committee while I offer a few observations that have occurred to my mind upon this subject; and, in forming my opinion, I have not taken my flight across the Atlantic to consult the constitutions and practices of different Governments; neither have I suffered my imagination to pursue those who have travelled so far out of the true way, fully believing that every attempt to bring our Constitution to the level of comparison with those of monarchical Governments, is only an attempt to throw a shade over it. Neither shall I extend my views for years back, to take into consideration what has been urged to have taken place in the original Convention which formed the Federal Constitution, nor in the different State Conventions, when the Federal Constitution was under their respective discussions.

I will only observe, that were I to have recourse to them, they would all tend more fully to confirm my mind in the opinion I have formed upon this subject. Sir, I have taken the Federal Constitution, and that portion of reason that Providence has favored me with, for my guides; and I hope to be excused if, while I am offering my sentiments upon a subject of such importance as the one under discussion, I shall not be able to express my idea with all the regularity of legal arrangement, as I have not had the advantage that most of the gentlemen who speak on this floor have had—I mean that of a legal education. One thing, however, I shall endeavor to observe, which is, to avoid art and sophistry, of which there has been so great a display by some gentlemen on the present occasion, and to express myself in language intelligible and unequivocal. As the subject has been so much exhausted, I shall be obliged, in order to avoid the repetition of other gentlemen's arguments, to take new ground in a considerable degree, or rather to chalk out a new path through the old ground.

Sir, I find upon the face of the Constitution, and in the plain express words thereof, sufficient data to govern my opinion upon this subject. This is the strong pillar of our political fabric; it is the vehicle conveying powers to all the constituted authorities, and when it stops short of con-

veying the necessary power they must remain with the people, who are the source of all power. And if it should appear that, in any case, a power dangerous for the liberties of the people was really conveyed by the Constitution, the people ought, they will, whenever sensible thereof, restrain or control it, by amending the instrument. Sir, let us travel abroad as far as we may; let us extend our researches after as many extraneous means of assistance to support forced and constructive opinions of the Constitution as all the rack of human invention will enable us to do, we must at last return to that, and take our direction therefrom.

Let us, then, consider what this important, this safe guide leads us to upon the present occasion; important, because it is the will, the voice, of the people collected and communicated to us in the most solemn manner; safe, because, while pursuing it strictly, we shall never be led astray.

Sir, the Constitution declares that "the PRESIDENT shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur." Here is a power granted to two of the constituted authorities for certain purposes. It is a power essentially necessary for the good of the nation, that it should be lodged in some of the Constitutional departments of Government. Here, then, we find the sacred, the important deposit; and there is not an article, section, sentence, or word, in the Constitution, that conveys an idea of any other power being designed or made necessary to co-operate with this power. It is all comprehended in these few words, "the PRESIDENT shall have power." Can power, by language, be more expressly, more exclusively and completely granted? I contend not.

To admit the Constitutional Treaty-making power to be complete in the PRESIDENT and Senate, as I think has been done frequently, even by gentlemen in the opposition, and as it were in the same breath, to set up a controlling power, over that complete power, will, in my opinion, confound the wisdom of the wise, to reconcile with propriety and consistency. Sir, I am of opinion that, when a Treaty with a foreign nation, confined within Constitutional bounds and limits, is negotiated by an Ambassador of the United States constitutionally appointed: when the Treaty has been ratified by the PRESIDENT, by and with the advice and consent of the Senate, as the Constitution directs, and is promulgated by the Proclamation of the PRESIDENT, that it becomes the law of the land, or, as the Constitution expresses it, "the supreme law of the land;" that it requires no act of this House to give validity as to the binding influence thereof. Sir, it is declared by the same Constitution, that it shall be paramount to the Constitutions and laws of the respective States, and of course paramount (for the purposes thereof) to the laws of the General Government, in cases where there might be a clashing; and I have not a doubt on my mind, but that the judges of the Supreme Court of the

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United States would so adjudge, if such a case should arise.

Sir, when the debates first took place upon this subject, much stress was laid by some gentlemen upon these words of the Constitution: "all Treaties made, or which shall be made, under the authority of the United States," raising this construction therefrom, that the authority of the United States must include the House of Representatives as well as the **PRESIDENT** and Senate. I should suppose it scarcely possible for any person to read the Constitution carefully, and seriously to give such an opinion, unless he was governed by a strong desire to participate, not only in the Treaty-making, but in all power, for the idea may, with equal propriety, be applied to every act of the Executive department of Government.

Sir, I would ask if there are no acts done under the authority of the United States but such as this House has an agency in, or influence over? Permit me to say, sir, that there are many. Let us consult the Constitution, and we shall find that there are some in which the **PRESIDENT**, and others in which the **PRESIDENT** and Senate, is and are exclusively made the authority of the United States, and in which it is impossible, from the Constitution, to admit this House to have a participation in, or influence over. I will not take up the time of the Committee to recite them particularly in this place; they are enumerated in the second section of the second article of the Constitution, which defines the Executive power of the United States, and in which section the Treaty-making power is granted.

Sir, this House claims the exercise of a controlling power over the Treaty-making power. Let us take a comparative view of the Treaty-making power with that of the Legislative power, and draw an inference therefrom. In the first article and seventh section of the Constitution, the Legislative power is defined in the following manner:

"Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large upon their Journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law."

Sir, here is a case wherein this House and the Senate have a co-operative power with the **PRESIDENT**, but, in case of difference of opinion, the check is increased, so as to have the subject more thoroughly investigated, and the power of the **PRESIDENT** in this case is greater than the power of a majority of both the other branches of Government. Sir, permit me to make one or two observations upon the rules observed between the two Houses in case of disagreement. The House

of Representatives pass a bill and send it to the Senate for concurrence; the Senate proposes amendments, they are rejected by the House; conference is had between the two Houses by members appointed from each, to try and incorporate the sense of both Houses together, which is for the most part (though I believe not always) done. If the two Houses disagree finally, the bill is lost, does not pass into a law; all the checks and balances which have been so frequently mentioned as among the excellencies of our Constitution, are, in these cases, exercised, and have their nicest operation before the bill passes into a law, or before it is defeated. But, when passed into a law, the idea of checks and balances having had their operation, is at an end. Sir, does the Constitution provide any such check or control with regard to the Treaty-making power? Does it require the **PRESIDENT** and Senate, after approving Treaties, to send them to this House for deliberation, for concurrence, or for approbation? No, sir, not an idea of the kind.

There is no provision made in case of disapprobation of this House, that they should be returned by the **PRESIDENT** and Senate, with their reasons for disapprobation, to be reconsidered, so that, in case of disagreement, there might be some possible way to reconcile it. There is no such check, no such control, nor words that can convey such an idea. From thence, sir, this inference may naturally be drawn, that a check or controlling power to the Treaty-making power could not have been designed by the framers of the Constitution, otherwise it would certainly have been made legible upon the face of it. The idea that this House has a control over the Treaties, according to my mind, tends to the consolidation of power. It prevents the operation of checks and balances in the way the Constitution points out, and tends to the annihilation of Presidential and Senatorial powers. Sir, the nature of balances must be changed on some new principles established to suit the times, before we can admit the lesser to weigh down the greater, and a lever to be balanced with all the weight at one end.

Sir, is the idea admissible, that our Constitution has the seeds of war, the foundation of dissension between the different branches of Government planted in it, and that there should be impossible means of reconciliation provided? Sir, my mind revolts at the idea of it, and yet this is the issue, this is the certain consequence of the doctrine now supported. It is realized in our present situation. This House is at variance with one of the branches of Government, and there is danger that we may soon be in the same situation, with regard to the other branch. In this situation, (which, however, I sincerely hope we may not be reduced to,) what is to be done? Permit me to say, sir, that the Constitution points out no way of accommodation; it deserts us, and why? Because we have forsaken it. The further we travel in the wrong way the more difficult will our return be. Sir, let us stop for a moment, before we get finally lost. Let us pause, and seriously consider how we shall get back to the right way again. Sir, the way is

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as yet easy. Let us give up our views of aggrandizing our own power; let us give due efficacy to the Constitutional powers of the **PRESIDENT** and **Senate**; let us study to promote harmony and unanimity between the different branches of Government, and within their walls, and I make no doubt but we shall soon surmount all our difficulties, and promote the public good more immediately and essentially than by any other line of conduct we can possibly pursue. Sir, it has frequently been asked, whether this Treaty-making power shall have no check nor control? To this I answer, that, in my opinion, the Treaty-making power, when exercised upon and embracing objects usually comprehended in the meaning of the word Treaty, which the mutual and common interest of nations requires, should be settled by compact; and when it is in this, as well as other respects, exercised in a Constitutional manner, that it is as complete, for the purposes thereof, as the Legislative powers of Congress are for the purposes of legislation, and has no more check or control than the Legislative power has. Permit me now to state some further embarrassments to Government, that strike my mind forcibly, as resulting from the doctrine of control over Treaties. The **PRESIDENT** issues his Proclamation, informing the citizens that he has, by and with the advice and consent of the **Senate**, made a Treaty with a certain Power, and proclaims the contents thereof; which, from thence, becomes the law of the land. This House wishes to exercise a control over it; they express their sense that it shall not be a Treaty. Does this, sir, destroy or impair the binding influence thereof? Would the Judges of the Supreme Court, the Judges of the District Courts of the United States, and the Judges of the respective State Courts, look upon that vote as binding upon them, and judge accordingly? I contend not. In this case we shall be placed in a most singular and extraordinary situation indeed; a situation that I can scarcely imagine any nation in existence was ever placed in before. A Treaty is constitutionally made, becomes the law of the land, governs the **PRESIDENT** and **Senate**, the Judges of all the Courts in the Union, and all the citizens of the United States, not even excepting the members of this House in their private capacities; but this House, not in their Legislative capacity, because they cannot legislate against a Treaty, but, in a declaratory way, express their sense that it shall not be a Treaty.

Sir, in this situation, what is to be done? Permit me to say, sir, once more, that the Constitution abandons us; it points out no mode of reconciliation between the three different branches of the Government. That, of course, confusion must be the consequence. But, sir, it is said that it is a bad Treaty, and that we ought to break it. With regard to this, permit me to observe, that there is nothing to be discovered by my mind upon the face of it, either from the want of reciprocity, or from any principle that it contains, that would be half as degrading and prejudicial to the United States, as the violation of her honor and faith. Sir, if there were no other considera-

tions than those to influence my mind upon the occasion, I confess I should not hesitate a moment about giving my assent to it; but there are other motives which have considerable weight with me on the occasion, which I shall take notice of hereafter. I will only observe, further, on this point, that if it is a bad Treaty, the responsibility lies not with us. We have had no hand in making it, and we cannot constitutionally destroy it. The responsibility must remain with the branches of Government that, in the exercise of their Constitutional functions, have made it.

When this subject was under discussion upon a former occasion, the voice of the people was laid hold of by some gentlemen with great zeal, as a powerful engine to enforce the doctrine that they espoused. For my own part, I would ever wish, both in public and private life, to pay all due respect to the voice of the people, when properly collected and communicated; and I think I am faithfully pursuing that line of conduct, while I am endeavoring to support their Constitutional rights and liberties; and the arguments of the gentlemen in opposition appear to me to savor too much of the character of the wolf in sheep's clothing, to have much influence over the minds of those to whom they are addressed. Much, also, had been said upon the same occasion, both within these walls and without, to impress an opinion upon the public mind, that those who supported the power of this House against the power of the **PRESIDENT** and **Senate**, on the subject, were the only friends, the only meritorious supporters of the liberties of the people; and those who opposed the usurpation of power in this House, were the enemies of the liberties of the people. Sir, if this be the case, times are amazingly changed indeed. I believe it is the first time, since the creation, that the persons who, to aggrandize their own power, by endeavoring to break over this sacred barrier of liberty, as secured to a people by a Constitution, the emulation and envy of the world, for the pure principles of rational morality that it contains, and by robbing other constituted authorities of their chartered powers, were called the zealous, meritorious, virtuous supporters of the liberties of the people, and those who refused to join in the usurpation, and endeavored sincerely to maintain the Constitution, and every branch of Government, in the full exercise of their Constitutional functions, were called the enemies of the liberties of the people. Sir, it seems expedient that not only the meaning of words but of actions should be changed by construction, to suit the times. I hope we shall, in our career, stop short of changing the times and seasons.

Sir, if our Constitution is ever violated essentially, or in such manner as to endanger the liberties of the people, it must be done in some such way as the present measures lead to, by one branch of Government under false coloring and specious pretexes, usurping the powers of the others, and thereby endangering the consolidation of power. But, sir, as long as every branch of Government preserves the full exercise of the pow-

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ors with which it is vested by the Constitution, there can be no danger.

Mr. Chairman, Constitutions are, to my mind, at all times delicate and dangerous things to handle; but more particularly so, when party views and high raised prejudices and passions are influencing our deliberations, and I sincerely hope that this House will not, in their jealousy of the power of the President and Senate, and in an attempt to display their own strength, break in upon our excellent Constitution, (under which we are enjoying the greatest share of temporal blessings now enjoyed by any nation upon the face of the earth,) by forced construction, and lay violent hands upon it, Samson-like, and endanger tumbling down the pillar on which our political fabric rests, upon their own as well as the heads of others, and thereby hurry all into one general scene of confusion and ruin. Sir, when this subject was under consideration, upon the former occasion, there were several appeals made by those who were opposed to the controlling power over Treaties, to one or two gentlemen of this House, [Mr. MADISON and Mr. BALDWIN,] who were members of the Convention that framed the Federal Constitution, for the correctness of certain opinions that they advanced, and to which those gentlemen were opposed. Those appeals were not met with the candor and frankness that have usually marked the conduct of the gentlemen to whom they were addressed. At least, I have not heard any satisfactory answer given to them. As it appears to me that not only this House, but the public mind, might have received considerable information upon the subject, from the members of that Convention who are now members of this House, and, particularly, whether the idea of a controlling power in the House of Representatives over the Treaty-making power, was not abandoned by the Convention as not designed to be granted, I was induced to hope that those gentlemen would have given with candor the information upon that subject that the appeals to them naturally led to, but in this hope I was disappointed, and am of opinion that the circumstance, if duly considered, must carry conviction to the public mind, that their silence is an acknowledgment of the fact; and permit me to observe, that it was not to confirm my own mind in the opinion I have formed upon the subject, that I wish for the information, but to assist the public mind, that they might be able to judge what the Constitution was in its origin, in its pure native state, and when Government was like an infant, in a state of innocence. Sir, if this information had been obtained, the public would have been able the better to judge whether the Constitution is violated by forced constructions, and if so, who are instrumental in the violation?

Sir, I observed when I first rose, that it was not my intention to go into a particular consideration of the Treaty, article by article. I shall not relinquish this principle; I will only make a few general observations, with regard to our relative situation thereto. This Treaty has been made by the proper constituted authorities of the Govern-

ment, and is promulgated as the law of the land. The faith, the honor of the nation, is pledged for the due fulfilment of the stipulations contained therein. It is generally admitted, that, upon Constitutional ground, it may be supported. And to my mind, there is nothing in the face of it that appears of a dangerous, degrading, or destructive nature to our Government. I take it, that the good or bad effects of the Treaty are chiefly to be learned from experiment, and I should by no means wish to rush precipitately into certain embarrassments, to shun imaginary ones. If it goes into operation, the most prominent disadvantages that I recollect to have been urged against it, are the payment of the debts due to British creditors and the great want of reciprocity. Upon these, sir, we may calculate, though it is said with no degree of certainty. These objections, and such others as have been raised, have been so satisfactorily answered to my mind that I think it unnecessary to make any further remarks upon them. But, sir, let us take a view of the probable injuries, losses, and damages that we may sustain, if it should be violated. I will venture to say that they are incalculable. Sir, in the first place, our national honor and faith prostrated, the disadvantages that may result from this alone, are not to be meted with the measure of human wisdom. Our commerce ruined or vastly impaired without prospect of reparation. Sir, the commerce of this country requires the attention and protection of Government as much if not more than any other object; for, sir, permit me to say, that it is not only a great source of wealth to individual adventurers but it is the source from whence Government derives almost all the supplies to her revenue, and that it is the main-spring of the agricultural interest; for, sir, obstruct our commerce, and what will be done with the surplus of agricultural productions? Sir, permit me to say, that in these respects our disadvantages will be almost incalculable; our Western posts will be kept out of our possession; but upon this subject so much has been said that there is little room left for further remark. Our Government divided, and no probable way of reconciling the difference; and, sir, give me leave to say, that we have the highest authority for the danger of a house divided against itself that it cannot stand; and, lastly, danger of laying the foundation for war.

Sir, before I proceed to offer my observations upon the last point, I would make a remark or two upon what had fallen from the gentleman who was second up, on Thursday last, from Virginia. That gentleman urged, with a good deal of zeal, that it was wrong, that it was improper for gentlemen to touch upon the subject of war, or to express such an opinion on this floor, and at the same time called upon gentlemen to come forward freely and candidly with their sentiments. As I would ever wish to avoid what is wrong, and as far as in my power to pursue a line of conduct that should be marked with propriety, I would be obliged to that gentleman if he would communicate a mode in which I can by being silent offer my sentiments freely and candidly upon the occa-

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sion, for that would be the result of his observations; but, as I do not wish to put the gentleman's invention to the rack, I will proceed, and I hope I shall neither want freedom nor candor.

Sir, the idea of war appears to have no weight with some gentlemen, who urge that there will be no more reason to apprehend such an event to take place if the Treaty should be infracted, than if it should not. For my own part, I am free to declare (although the consideration is the most painful to me) that in my opinion war will naturally grow out of the measures that some gentlemen appear anxious to pursue. Permit me, sir, to offer my reasons for this opinion. Every one knows the relative situation that this country stood in with Great Britain before the negotiation of this Treaty was entered upon. It was the general opinion that war was unavoidable. The aggressions committed, the hostile disposition shown by the Government, were at that time so notorious, that we seemed to be all of one mind upon the subject. But kind Providence has, in addition to the innumerable and unmerited blessings hitherto conferred upon us, so influenced and overruled our public counsels, as to bring about a suspension of that awful calamity, and has placed it in our offer still to continue in the enjoyment of peace and all the blessings that naturally flow therefrom, upon terms which if not in every point of view as favorable as we could wish, or as we would have made, if the bargain had all been in our own power, yet as much so as is common between nations, and as perhaps we ever shall obtain. Sir, there has, ever since the establishment of peace with Great Britain, in 1783, existed causes of controversy between the two countries.

Those that existed before the present war in Europe, were frequently attempted to be settled by friendly negotiations between the Ministers of the two countries. Those attempts proved unsuccessful. Upon the commencement of the war in Europe new causes of complaint arose by frequent aggressions upon our commerce, and a hostile disposition shown upon our frontiers. Sir, in this situation Government was reduced to the necessity of pursuing one of the three following courses; to negotiate in an amicable, friendly manner; to endeavor to repel force by force; or tamely submit to the destruction of our commerce. Negotiation was the measure adopted, and, in my opinion, was a measure that will forever reflect lustre upon the author of it; a measure founded upon true principles of policy and humanity. Sir, the true issue of the measure is now before us. A solemn compact has been made between the two Governments, to accommodate their differences; to remove grounds of future animosity, and to lay the foundation for peace, amity, and security of commerce between the two countries. This House violates the compact. What is to be done? How are the subjects of negotiation ever again to be brought into view or negotiated upon? I confess I am at a loss to determine. The gentleman from Virginia [Mr. MADISON] who was first up on this subject, informed us that there was little or no difficulty in the way. We might negotiate

again was the gentleman's observation. I acknowledge I was surprised when I heard that gentleman deliver such an opinion.

I will only observe with regard to it, that nations are bound, and (ought indeed if possible to be more firmly bound,) by compacts, equally with individuals. I would ask that gentleman what he would say to a man, who, after having sealed a settlement of all existing differences, upon the most mature deliberation, was to call upon him and inform him that he could not tell how the bargain would turn out, he had not made trial of it, but he was of opinion that he ought to have and might have obtained a better bargain, if he had stood out a little longer, and wish him to cancel the obligation, and throw all sources of controversy afloat again, in order to give him a chance of making a better bargain? Sir, I ask the gentleman if he would not, in such a case, reply, we have made a fair settlement, and solemnly bound ourselves to fulfil it, comply with your part of the stipulations with good faith, and I will comply with mine, and if any future cause for negotiation between us should arise, I will always have confidence in you and will meet you upon rational and equitable grounds? But, sir, if you will not comply with one solemn engagement, it is not in your power to convince me that you ever will with any. I think the same will apply to nations more forcibly than to individuals. But, Mr. Chairman, what assurances have we that the Executive will ever interfere in this business again? They have done their parts as to a negotiation with Great Britain. How are they upon this ground ever to know what this House will agree to? This House cannot co-operate with the Executive in making of Treaties, cannot propose alterations or amendments, therefore, admitting that the PRESIDENT might, in this case, appoint an Ambassador, and procure him to accept of the appointment, which, however, I think extremely doubtful, and a new negotiation should be attempted, what greater assurances would there be that the House of Representatives would assent to the issue of the negotiation than there was before?

Permit me to say, sir, that there would be none. Upon the principle we are now going, every member in this House might agree to certain stipulations in a Treaty, and they might be ratified by the Executive, and the foreign Power joining in the compact, and laid before this House after the next election for the appropriation, and be rejected by a number of new members being returned. This being the case our present negotiation, and all prospect of future negotiation closing upon us, all the former sources of controversy revived, new causes of discontent and complaint will, beyond a doubt arise, and we shall go on from one step of irritation to another until war will be the inevitable, the awful consequence.

It is urged by some gentlemen, that there is no danger that Great Britain will declare war against us. That it is not her interest so to do. Permit me to observe, that those remarks are as correct, in my opinion, as any I have heard made by the gentlemen in the opposition. I have no doubt but

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that Great Britain would be willing to remain in peace with us, as long as we shall be disposed to let her possess the Western posts, and all the moneys arising from the capture of vessels, and to commit whatever further spoliations upon our commerce that she may incline to do. I believe she would be very willing, upon those terms, to avoid war. But, sir, I would ask, what are we to do as a nation under such circumstances? Could we retain a pacific disposition? Should we not be driven into acts of reprisal and hostility? Permit me to say, that there would be no rational prospect of avoiding them.

Sir, let us take a cursory view of our comparative situation with Great Britain now and before the Treaty was negotiated. Then, if we had by the aggressions of Great Britain been coerced into a war we should have been united to a man in one common cause and Great Britain would have been divided; we should have had a powerful interest in that nation in our favor. Would that be the case now? Permit me to say, that the reverse would ensue. If we break the Treaty, the Government, the nation, will look upon us as the aggressors, they will be impressed with an opinion that we are not sincere in our wishes to be in peace and amity with them, and will be united. Will that be our situation? Sir, I think we have but little reason to flatter ourselves that it will. Our General Government will be divided. Our States divided; for sure I am, that many, perhaps a majority, will be opposed to the measure. Our citizens divided, and in this situation we are compelled, we are dragged into a war, the awful consequences of which are incalculable, and on the contrary, the blessings of peace are so inestimable that they are scarcely to be preserved at too dear a price.

Sir, I would wish, before I close my observations, to make one or two remarks upon what fell from the gentleman from North Carolina, who was up on Thursday last [Mr. HOLLAND.] If I understood that gentleman right, he observed, that he could not vote for the Treaty without the papers, that it would be establishing the doctrine that this House had no right to deliberate with regard to the papers; I own I should not by any means think myself justifiable in withholding my assent to a measure of great importance, and in which the peace and happiness of my country were essentially concerned, because an officer of Government had not done what he judged was not his duty to do; and as to the gentleman's vote upon the occasion, or the vote of the House establishing the principle, I confess, I view it in a very different point of light; because, if the doctrine that gentleman contends for be tenable, no principle in Government, upon subjects of this nature, can ever be established, no succeeding House of Representatives or Senate is bound by acts of the preceding Legislature, and every succeeding House or Senate may thwart or control the acts of the preceding Legislature, at their pleasure. Sir, I would wish gentlemen seriously and dispassionately to consider the danger that will naturally flow from and arise out of the measures that are pursuing,

and that if this House should persist in and bring about such measures, contrary to the sense of the nation, that they alone will be responsible for the consequences; and a truly solemn and awful responsibility will it be.

Mr. Chairman, as it appears from the course of the debates that nations and men have more influence upon the minds of some gentlemen than measures, I probably may be charged with undue favoritism to the nation of Great Britain, and want of friendship to the Republic of France. With regard to that, sir, permit me to observe, that I believe there is not a person in existence who knows my public and private walks in life, that would subscribe to such an opinion. Sir, the principles of rational liberty I wish to see disseminated, and to prevail amongst the nations of the earth as much as any man, and sincerely hope that the French Republic may establish her Government upon such principles, and that her citizens may enjoy the blessings consequent therefrom to the latest ages. But, sir, permit me to observe further, that I have a stronger attachment to my own country than to all the nations upon the earth; and while I have the honor of a voice in this House that, as far as I am capable of judging, neither nations nor men shall influence my mind in preference to measures, and that in all my deliberations the liberties, the peace, the prosperity and happiness of my own country shall predominate.

Sir, the State that I have the honor to represent, although not for number of citizens to be ranked with larger States, yet, in proportion to her numbers, may be ranked in the scale of importance with any of her sister States. This State is chiefly agricultural, but somewhat concerned in the commercial and manufacturing lines. As commerce will be promoted and secured by this Treaty, and as agriculture must of course flourish in proportion to the increase of commerce, I am free to declare that in those respects particularly, as well as upon general principles, in my opinion, it will essentially promote the interests of the State of New Jersey, and of the United States, to carry the Treaty into operation. And, sir, I do declare, in my place, and I make the declaration under the responsibility I owe to my God and my country, that from the best information I can obtain from the citizens of that State, in my opinion, under existing circumstances, the persons representing nine-tenths of the property of this State are in favor of the measure. If in this statement, however, I should be incorrect in the opinion of any of my colleagues, I call upon them, as Representatives from that State, to set me right.

I shall now close, sir, with expressing a hope that the resolution may be adopted.

Mr. HOLLAND said a few words in explanation. The Committee now rose, and had leave to sit again.

MONDAY, April 25.

THE SPEAKER informed the House he had received a letter from the Governor of the North-

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western Territory, enclosing two petitions, which he requested, as that Territory had at present no Representative in the House, the SPEAKER would present. They were accordingly read. One related to lots of land which the petitioners had been promised, and which they had not received; the other prayed for permission to import slaves into that country from other States, so as not to increase the number. They were referred to different committees.

EXECUTION OF BRITISH TREATY.

Numerous petitions were presented to-day on the subject of the British Treaty, among them, one by Mr. GALLATIN, from the State of Delaware, against the Treaty, signed by ninety-one persons; and Mr. S. SMITH presented a petition signed by the Chairman and Clerk of a society of manufacturers and mechanics at Baltimore, (as Mr. S. informed the House,) of about four hundred respectable persons, praying that that House would use its own discretion with respect to the Treaties before them, uninfluenced by any other consideration than the public good.

This petition caused considerable debate. Messrs. AMES, THATCHER, and SITGREAVES, opposed its being received, as it was from an incorporated society, as it purported to be the petition of a number of men, and was only signed by two; and that even these two, as they had signed the petition in an official character, might not approve of its contents. It was supported by Messrs. S. SMITH, MACON, FINDLEY, GALLATIN, HILLHOUSE, MADISON, and KITCHELL, as a practice not uncommon in that House, (the societies for the abolition of slavery, and the Society of Quakers were mentioned as instances,) that they had frequently received petitions of societies signed by their Chairman and Secretary, which, if they were incorporated, were not incorporated for that purpose; and that, raising an opposition to the practice, in this particular instance, seemed as if gentlemen were determined to introduce uneasy sensations into their debates.

The House then resolved itself into a Committee of the Whole on the State of the Union; when the resolution for carrying into effect the British Treaty being under consideration—

Mr. HENDERSON concluded his remarks, as given in full in preceding pages. When Mr. H. sat down, Mr. HARPER rose, and spoke in favor of the resolution.

[No report of Mr. HARPER's Speech can be found, and it is believed it was never published.]

At the conclusion of Mr. H.'s speech, there was a divided cry, of "Committee rise," and, "the question;" when, the sense of the Committee being taken, it was in favor of rising, there being fifty votes for it, which was a majority of the members in the House.

TUESDAY, April 26.

EXECUTION OF BRITISH TREATY.

Numerous petitions on this subject were presented to-day, and referred to the Committee of the

Whole; after which, the House resolved itself into a Committee of the Whole on the state of the Union, when the resolution being under consideration for carrying the British Treaty into effect,

Mr. DWIGHT FOSTER observed, that as the subject before the Committee had been minutely discussed, it was not to be expected any new arguments, either on the one side or the other, would be adduced. Hitherto he had been silent—though silent, he had not been inattentive—he had listened with candor to everything which had been offered; he had formed his opinion upon serious deliberation, and was ready to give it whenever the question should be taken.

When the resolution requesting the PRESIDENT to lay before the House a copy of the instructions, correspondence, and other documents relative to this Treaty, was under consideration, Mr. F. observed, that he had intended to have expressed his sentiments on the subject; but the great length of time which was spent in that discussion, and the extreme impatience discovered by many members to have the question taken, induced him, as it might several others, to be content with expressing a silent vote, as he did with the minority, on that occasion. This he was the more willing to do, as it was then well known that the Treaty itself would be before the House; that some appropriations would be requisite, on their part, to carry it into effect; and, it was not to be doubted but every gentleman who wished to express his opinion would have an opportunity. The time had now arrived, and several days had been spent already, he believed not unprofitably, in deliberating on an instrument which had been the cause of great agitation in the United States.

Mr. F. further remarked, that he was prepared, and had intended, to take an extensive view of the subject; to have examined the real and supposed merits and defects of the Treaty; to have stated the advantages it secures to this country, and to have commented on the objections which had been offered against it; but so much had been said by the gentlemen who had preceded him in the debate, and the subject had been so fully and so ably discussed, he should not feel himself justified in consuming much of the time of the Committee.

He was heretofore one of those who considered the negotiation as advisable; it appeared to him the only means by which the horrors of war were to be avoided. He therefore rejoiced when the PRESIDENT appointed an Envoy for the purpose of negotiation; nor did he yet find any reason to apprehend the measure was injudicious. Far otherwise. He believed it was right, proper, and advisable; and that the result would prove highly advantageous and fortunate for our country. He further said that he had critically examined the various articles of the Treaty; that he had weighed the arguments for and against them, jointly and severally; that he had considered them with all the attention their importance required; and though, in some instances, we might have wished an extension of advantages on our side, he was bound, in conscience, to declare that he thought

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the Treaty as beneficial to us as we had a right to expect.

What were its objects? To settle between the two nations existing differences, and to adopt such regulations as should prevent them in future. The basis of all Treaties is the mutual advantage of the contracting parties. It is not to be expected the benefits should be on one side only; they must be reciprocal, or they will not be lasting. Experience will teach us that the commercial regulations contemplated in the Treaty with Great Britain, are as favorable to us as they are to that nation. It is the opinion of many of the best informed mercantile characters, they are more so. As to the other part, which was infinitely more momentous, the settlement of existing differences, our utmost wishes will be achieved, unless prevented by imprudent measures, and the exercise of an ill-timed discretion, as gentlemen are pleased to call it, on our part.

Indemnification for the injuries done to our commerce, the surrender of the Western posts, and consequent facility of maintaining peace with the Indian tribes, the amicable adjustment of an old and tedious controversy, and an honorable escape from the dangers and horrors of a foreign war, are great and important advantages, obvious to every one who has paid any attention to the subject.

The right of the PRESIDENT, by and with the advice and consent of the Senate, to make Treaties, is a principle clearly defined by the Constitution. Not a single power delegated by the Constitution to any one branch of the Government is defined in terms more explicit, or less liable to be misunderstood, than those which define the Treaty-making power of the United States; and, during the whole course of the former and present debates, Mr. F. observed, he had not been able to raise a doubt in his own mind on the subject. The Treaty under consideration had been duly made and ratified by the proper authority, constituted for this purpose by the people of the United States; as such it was now before the Committee, and demanded their serious attention and respect. The subject was allowed by all to be of importance. To him it appeared more momentous than any other which, at any time since the establishment of the Government, had engrossed the attention of Congress. He viewed it not as a question of peace or war only, but as involving questions of far greater magnitude. He meant the present unexampled prosperity of this country, our political happiness, our excellent Constitution, and probably, in its consequences, the existence of the national Government.

He concluded, by observing that, impressed as he was with these sentiments, he could not hesitate a moment to vote for the proposition on the table, and he hoped a majority of the Committee would be of the same opinion.

Mr. KITCHELL said, he could throw no new light upon the subject under discussion; he wished only to express a few ideas which would lead him to support the resolution in its present form. He did not believe the Treaty to be that box of

Pandora, which was to scatter evils of every kind upon the land. He believed there were stipulations in favor of the United States, as well as in favor of Great Britain; and when the Ministers of the two nations enter into contract, it must be expected that stipulations will be agreed to on each side which will not appear perfectly satisfactory to either, as certain concessions must be made on both sides.

He would mention only the probable consequences of rejecting the Treaty. The disposition of the two nations towards each other at the time of entering into negotiation was well known. The spoliations and injuries done to the American vessels had wound up American resentment to the highest pitch. Happily for America, Britain saw cause to change her system of aggression. He believed, with some other gentlemen, that Britain had not only formed the plan of crushing the rising liberties of France, but also of extending her views to America; but, from a reverse of fortune, she found it necessary to employ all her resources against France. There was another thing, the people of England were clamorous on account of the injuries done to the vessels of America; they were seen to be unjust, and were publicly reprobated. These circumstances were favorable to our negotiation, and he believed they could at no time have got a better Treaty, than at the time the present was agreed upon.

He said, they had only three alternatives. Either to give aid to the Treaty, continue to bear the insults of Great Britain, or else to determine resolutely on the dernier resort, war.

First, as to giving aid to the Treaty. Every gentleman had formed his own conclusions on the subject. Was it possible that they could submit to the continued depredations of the British? If they did so, should they be in a better situation than the Treaty would put them into. He believed not; and therefore he thought it best to give aid to the Treaty. By this Treaty they should also have peace with the Indians; but if it was rejected, war the most grievous to our frontier might be expected to continue. If the nation went to war, the gauntlet was thrown, and all was risked upon the decision. They were not now bound by that duty to go to war, which bound them in their war for independence. They were yet in infancy, and a war would increase their debts, reduce their strength, destroy their commerce, and leave too much to the chance of war, to say nothing of the horrors attendant on such a state.

He believed it would, therefore, be much the best to make provision for the Treaty. It was difficult to bring forward any argument which had not already been urged. One thing had been brought forward which he thought illusory, that, if they did not carry the Treaty into effect, recompense would be made for the losses of their merchants by Government. He should think himself criminal if he were to agree to any such thing. If they were to indemnify them, an inquiry must be instituted into the exact amount of losses, or else they must grant compensation by the gross. But

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he thought merchants might as well call upon them to make good losses sustained by storms.

This idea, therefore, ought not to be held out to merchants, as he was of opinion, Government would never agree to such a proposition. He could not say anything in respect to the probability of getting the amount of the spoiliations from Great Britain; she had said as much as she could, and he believed it would be best to see whether she would not perform her promises.

The gentlemen from North Carolina and Virginia, [Mr. HOLLAND and Mr. MOORE] declined voting for carrying the Treaty into effect, because the powers of that House were involved in the vote. He said they might as well doubt the powers of speech whilst they were speaking, as the power of deliberating whilst they were in the act of deliberation. The resolution on the table was founded upon that right. The majority of that House would, in all cases, determine whether it had a deliberative voice or not. If they had not now possessed the power of deliberating, they would not have been suffered to have gone on in their deliberations, but have been called to order. This was, therefore, a complete answer to that objection; and if those gentlemen had no other objections against voting for the Treaty, they must now vote for it.

Mr. K. said, that if he supposed a principle was to be sanctioned by carrying into effect the British Treaty, that that House had not the right to deliberate upon the propriety of passing laws to carry into effect all Treaties which came before them, he would also vote against it; but he thought no such thing. He was convinced that they had the power to deliberate, and that they ought to deliberate. He felt himself under a moral obligation to vote for the Treaty, because he believed it for the good of the United States that it should go into effect. He hoped the Committee would concur in giving it aid.

This consideration, he said, ought to have some weight upon them. If they declined giving effect to the Treaty, would it not be said in Great Britain, that when a Treaty was made it was binding on a nation; and would not the people of that country be convinced we were to blame, and unite against us? And, he would ask, if the Treaty were to be rejected, whether the people of the United States would be united in their opinions against it? He believed they would not. He believed too many artful insinuations had been thrown out amongst the people to expect such an union of opinion. The situation of the United States, therefore, was infinitely worse prepared for war than it was two years ago, when every one joined in condemning the conduct of the British; but at the present, said he, if a war were to take place, our citizens would be divided against each other.

From these considerations, he had been impelled to give his vote for carrying the Treaty into effect. He hoped it would prove for the good of the Union; if not, he should acquit himself of having done what appeared to him the best at the time.

Mr. GRISWOLD said, that in his opinion, the extensive view which the Committee were taking of the merits of the Treaty with Great Britain was unwarranted by the Constitution of the United States; that he did not believe any part of the Treaty making power had been delegated to the House of Representatives; and that the Committee might with as much propriety examine the merits of the Constitution itself, for the purpose of deciding whether they would execute it or not, as to examine the Treaty in the manner which had been adopted in the Committee. He had, on a former occasion, delivered his opinions on that subject, and he would not attempt to repeat them; but, since the Committee had thought proper to take an extensive view of the merits of the Treaty, he would follow the example which had been set him, and submit a few observations upon that subject—more particularly as he believed that no discussion would prove injurious to that instrument. He should not, however, attempt to take a very extensive view of the subject, as gentlemen who had preceded him had exhausted almost every part of the subject, and left little to be said at that period of the debate.

Mr. G. said the Treaty embraced three great objects:

1. The execution of those parts of the Treaty of 1783, which remained unexecuted;
2. The settlement of disputes;
3. Stipulations for regulating the commercial and other intercourse between the two nations.

He said that it would be agreed on every side of the House that these objects were important; and if they had been justly and fairly secured by the stipulations of the Treaty, it would not be said that the Committee ought to feel dissatisfied with that instrument. He believed that this was really the case, and that the United States had no just cause to complain of the terms therein contained.

Several objections, however, had been made to that part of the Treaty which provided for the execution of the Treaty of 1783. It had been said that this Treaty did not provide for every part of the Treaty of Peace which remained unexecuted; and that conditions were annexed to the execution of those parts of that Treaty which had been provided for highly injurious to the interest of the United States. He said, if those objections were well founded, they formed a very serious objection to the present Treaty: but he could not find them by comparing or examining the two Treaties. The only article of the Treaty of Peace which it was said had been violated by the British Government, and was not provided for by the present Treaty, was that which respected the negroes and other property of the American inhabitants. He said he would not detain the Committee with many remarks on this part of the subject, as it had been very fully and ably explained by gentlemen who had gone before him: he only mentioned it for the purpose of reading that part of the Journal of Mr. Adams, one of the American negotiators of the peace, which immediately related to this subject. The same Journal had been already read by different gentlemen, in detached parts, but he

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wished to bring the whole Journal at one view before the Committee. He said, however, that he ought to repeat what had been already said on the floor, that the article in question did not want any exterior aid to assist the Committee with an explanation. The words of the article were certain and explicit; they declared that the evacuation should be made "without carrying away any negroes or other property belonging to the American inhabitants;" and as it was universally agreed that the negroes who had been carried away consisted either of those who had fled from their masters during the war, on a promise of emancipation, or of those who had been taken as plunder in the period of hostility, no doubt could exist but that in all those cases the property in the negroes was changed; that they were no longer the property of American inhabitants, and of course that it was no violation of the Treaty to carry them away. And whatever might have since been said on that subject, he was convinced that the American Commissioners, at the close of the negotiation, had no idea of including in the Treaty of Peace a stipulation to secure a restoration of negroes then in the possession of the British army. To evince this fact, he said he would now read the Journal he had before alluded to. [He read some paragraphs from that Journal.]

Mr. G. said that it appeared, from the Journal he had read, on what ground the negotiation respecting the negroes stood. The British agent claimed a restitution of confiscated estates. To rebut this demand, the American Commissioners, among other things, claimed compensation for negroes and other property which had been taken as plunder in different periods of the war. Finding, however, that no agreement could be obtained on these contested points, they were all relinquished as impracticable; and the claim for negroes, which had been made for no other purpose than to rebut the claim for confiscated estates, was given up of course, and, at the moment of signing the Treaty, the article in question was inserted—not to secure a restitution of property which had been changed by the events of the war, but to secure, by stipulation, that the evacuations should be made without any destruction, or carrying away property really belonging to the American inhabitants. He said that it had always been a matter of surprise to him that any gentleman had put a different construction on this article; and he thought the parties had done wisely in excluding from the present Treaty a claim which did not possess even the shadow of justice.

Mr. G. said, that in respect to the injurious conditions which it had been said were annexed to the provision for executing the other articles of the Treaty of Peace, he was obliged to declare that those conditions which had been complained of, and which were annexed to the surrender of the posts, were in his opinion, if they might be called conditions, highly advantageous to the United States, and were conditions which this Government itself would have dictated, had we possessed the power. He certainly did not wish the regulations respecting the Northern frontier altered.

The most liberal and advantageous intercourse is opened between the United States and the Provinces of Canada; the whole fur trade (the capital part of which lies within the British territory) is thrown open to the enterprise of our merchants; the channels are opened for supplying the British settlements, through the United States, with every species of goods, not entirely prohibited, which the consumption of that country may demand, and which can be so easily furnished by means of our inland navigation.

The stipulations in favor of the British settlers living in the vicinity of the posts, Mr. G. said, were highly reasonable, and, he did not doubt, would promote the interest of this Government. Those settlers were not to be stripped of their property, and sent naked out of the country; they were not to be compelled to leave their old habitations and to seek new shelter on the other side of the Lakes; nor were they to be compelled to become citizens of a Government which they did not approve. They were left to enjoy the property which they possessed, with the liberty of choosing the Government to which they would owe allegiance. By this conduct, the United States will gain many important advantages. The liberality and justice of the stipulation will conciliate the feelings of the British traders, and convert their influence with the Indian tribes to our advantage; and, by retaining them within our own jurisdiction, we shall possess a surety for their good behaviour, in the custody of their persons, families, and estates. A different conduct might have been attended with serious evils. If this Government had forced the British settlers to the other side of the Lakes, their influence with the Indians would have been retained, and their passions stimulated with disappointment and revenge.

Objections, said Mr. G., have been made to the article which relates to the British debts. It was said that this article is opposed to the Constitution, inasmuch as it erects a tribunal for determining claims which infringes the power of the Judicial Courts; that the mode of proceeding prescribed to that tribunal exposes the United States to great and unnecessary losses, inasmuch as it enables the Commissioners to admit testimony now excluded by the Common-Law Courts, and to decide claims on the broad basis of justice without respecting statutes of limitation which may have run during the existence of legal impediments. In answer to such objections, he would only remark, that the power of the Commissioners did not interfere with any Judicial Court; it did not embrace an authority to decide controversies between individuals; its jurisdiction was limited to controversies between the two nations, with which individuals had nothing to do, and could extend only to those disputes where the events of law could afford no relief. The debtor who was protected by a statute of limitation, or by a failure of Common-Law testimony, could not be affected by the decision of the Commissioners: those decisions could not be given in evidence against him, or supply any defect in testimony, or relief against a statute of limitation.

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He did not know what the amount of debts might be which had been lost by reason of those legal impediments which had existed against their legal recovery; he should regret as much as any man the misfortune of involving this country in the payment of large sums on this account; but the magnitude of the sum could form no objection in his mind to the justice of the stipulation. He said that the General Government, from the nature of its establishment, had become answerable to foreign nations for every fault of the State Governments. To the General Government alone must foreign nations look for compensation for losses or violation of Treaties; and, if the State Governments had, in any cases, suffered legal impediments to remain in the way of the recovery of just debts, and in consequence of these impediments the claims of creditors had been delayed, and the Common-Law evidence to support such claims lost by the delay, or statutes of limitation had run against them, he hoped it would never be said that the Government should avail itself of those circumstances. This would be persevering in the same line of injustice—first, to violate a compact by delaying a claim until the evidence of the claim is lost, or a statute of limitation had run against it, and then to avail ourselves of the defence which our own injustice had created. He believed that gentlemen could not seriously imagine that such conduct could be justified; and, although it might be true that this Government would, to a certain extent, be exposed to unfounded claims in consequence of this article, yet it ought to be remembered that we had brought this upon our own heads by violating the Treaty of 1783 in respect to those debts, and we ought not at this period to refuse justice, because by doing justice we should expose ourselves to partial misfortunes. He said, that the principles on which the Commissioners were to decide, were such as must meet the approbation of every honest man—such as this Government ought not to shrink from; they were the broad principles of justice, which ought to regulate the conduct of nations towards each other.

Under the head of disputes, two things were included—the settlement of boundaries, and the settlement of claims for mercantile losses. To the stipulations respecting the first of these objects, no objection had been made; and in respect to the second, he thought the terms equally unexceptionable.

It was a fact, well known, that many of the captures made in the West Indies were such as could be justified by the Law of Nations, whilst a great proportion were made in direct violation of our neutrality. It was apparent that discriminations must be made between these cases. For the first the British Government were not answerable, and for the last they had agreed to account. To ascertain the facts and make the discrimination, no mode could with justice be devised more favorable to the United States than the one stipulated by the Treaty. The British Government had gone as far as we could require; we were not concluded by the decisions of their Courts; our claims were still open to the examination of the Com-

missioners, who were to decide every claim on the principles of "equity, justice, and the Law of Nations." What other principles of decision gentlemen wanted, he could not imagine. For his part, he was contented with those he had named; and believing as he did that the Commissioners would be men of integrity, he could not doubt the propriety of their decisions.

Mr. G. said, that in respect to that part of the Treaty which was strictly of a commercial nature, he would make no remarks; he did not pretend to be a commercial man, and, if he had been, gentlemen thoroughly acquainted with the subject had fully explained it; but, he would ask the indulgence of the Committee, while he made a few remarks upon two of the temporary articles.

Objections, he said, had been made to the 18th article. It had been said that this article enlarges the list of contraband goods, and gives to the British nation the right of seizing our provision ships under circumstances where no seizure would be justified by the Law of Nations. He thought neither of these objections were well founded. It was true that the article in question did include a longer list of contraband goods than was included in some Treaties; but it was likewise true that it did not include so many articles as were contained in other Treaties; and it was equally true that the Law of Nations had left the subject of contraband goods without any specified definition, and that, under the general description of contraband goods, every article enumerated in this Treaty was included.

He was surprised to hear gentlemen say that any power (unauthorized by the Law of Nations) was given to the British Government over the provision-ships of the United States. If gentlemen would attend to the 18th article of the Treaty, they must be satisfied that the Law of Nations was meliorated in favor of neutrality, and that the provisions of the United States were, under no circumstances, liable to confiscation. The two last sections of that article related immediately to this point; the first of these two expressly stipulates that articles not generally contraband by the Law of Nations, but which from particular circumstances became so, and for that reason were to be seized, shall not be confiscated, but the owners thereof shall be speedily and completely indemnified. It is a principle universally understood, that provisions are not generally contraband, and can only become so from particular circumstances. Of course, in respect to provisions, it is expressly stipulated that whenever they become contraband according to the existing Law of Nations, and shall for that reason be seized, they shall not be confiscated. The last section respects a ship sailing to a blockaded port, without knowing the same to be blockaded. And here, again, the stipulation is in favor of neutrality. The ship is to be turned away, but cannot be detained, nor her cargo (if not contraband) confiscated, unless after notice she shall again attempt to enter. It may be asked, what shall be done with a provision ship attempting to enter a blockaded port after notice, there being no express stipulation on this point? He said that a vessel under these circumstances could not be con-

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fiscated, because such a measure would be directly opposed to the preceding stipulation, as the cargo of the vessel did not consist of articles generally contraband, but of such as became so from particular circumstances. In his opinion, the vessel under such circumstances might be seized, detained, and disposed of, in the manner stipulated by the preceding section, and the owner must be speedily and completely indemnified.

The other temporary article on which he would submit a few observations, was that which restricted the subjects or citizens of the two nations from committing acts of hostility against each other, and declared, that if any subject or citizen of the parties respectively shall accept any foreign commission for arming any vessel to act as a privateer against the other party, such subject or citizen shall be treated as a pirate. To his surprise, gentlemen had objected to this stipulation—an article which was found in every other Treaty existing between the United States and foreign nations—an article founded on the principles of justice and humanity—and which ought to be included in all Treaties, and merited his warmest approbation.

Mr. G. said that he would ask the indulgence of the Committee while he made a few remarks on one other of the permanent articles in the Treaty. It was that which respected lands now held by the subjects or citizens of the one party in the territory of the other. Doubts have been suggested as to the extent of this article. It had been said that the stipulation of the article would restore confiscated estates, and revive titles which had been lost by alienage. He thought, if gentlemen would attend to the words of the article, they would be satisfied that their fears were unfounded: the expressions were, "who now hold land," not "who have held land." The import of these words had been very accurately defined by the gentleman from South Carolina [Mr. HARPER] yesterday.

They could only relate to existing titles, and could have no effect on titles which had been lost by confiscation, alienage, or by other causes. He said there were, at this time, in both countries, lands which were now held by the subjects or citizens of the other. In the State from whence he came, lands were held by British subjects; they were held before the Revolution, and had never been confiscated; there were likewise instances of lands held in Great Britain by the citizens of the United States—lands which had descended before the American war, and now continued vested in the owners. These lands could be sold, but they could not descend to the heirs of the present proprietors, who would be aliens at the time when the descent should be cast, and could not take. But gentlemen will surely not object to the security given by this Treaty to the present proprietors of land. Those lands were honestly theirs, and it is certainly just and reasonable that they should be secured in their rights.

He said he would take up no further time in remarking upon the merits of the Treaty; he was persuaded, if the Committee would candidly ex-

amine its contents, they would be satisfied of its propriety; and if the House did in reality possess that power which had been claimed of ratifying and rejecting Treaties, they would not refuse their assent to the Treaty in question. But if gentlemen will reflect on the consequences which, under present circumstances, must await a violation of the Treaty, they cannot hesitate on this occasion.

He knew that gentlemen had said that every consideration of the consequences which must flow from a rejection of the Treaty was improper, and, in its nature, an address to the fears of the Committee, and an attempt to excite an improper alarm. He did not understand such expressions. He had never heard, on any other occasion, that a Legislature were to adopt a measure, regardless of consequences. He had always supposed that it was highly important to know what the probable consequences of measures would be, before they were adopted, and being still of the same opinion, he should take the liberty of stating to the Committee what he believed would be the effect of violating the Treaty, without fearing to be charged with the name of a terrorist.

Mr. G. said, he could hardly imagine that any gentleman would seriously support the opinion which had been delivered on that floor, "that, in case the present Treaty was rejected, a new Envoy might be sent to Great Britain, and a new Treaty immediately concluded." He wished the gentleman who had advanced this opinion would inform the Committee how this business was to be done. Were the House of Representatives to send an Envoy on this errand? he believed that no gentleman had become mad enough to propose this expedient. It must be agreed that no department in this Government can appoint an Envoy but the Executive. The appointment must be made by the PRESIDENT. And with what face can he do this? He has already told us, said Mr. G., that the power of making Treaties is exclusively vested in the PRESIDENT, with the consent and advice of the Senate, and that a Treaty thus made becomes the law of the land; and it can hardly be expected that the reasons which have been delivered in this House will convince the PRESIDENT of any error in his opinion, or that he would send an Envoy to the Court of London to say so. What instructions, then, can the PRESIDENT give to his Minister, if he should gratify the wishes of gentlemen, and send one to Europe? He must instruct him to say to the British Court, that he had taken the Constitution of the United States for his guide in the former negotiation; that he then believed, and still believed, that the power of making Treaties was exclusively vested in the PRESIDENT and Senate; that the Senate passed the same opinion; that, under these impressions, he had completed and ratified the Treaty, and, in the last article of that instrument, had solemnly pledged the faith of his country for the observance of the Treaty; but that the House of Representatives, for some cause or other, would not execute the Treaty with good faith, and had claimed a power of sanctioning Treaties by law,

which, in his opinion, was unwarranted by the Constitution; but, as the House of Representatives were not pleased with the Treaty already concluded, he had sent his Envoy to make another, which he hoped would please them better. Can any gentleman imagine that the PRESIDENT OF THE UNITED STATES will prostrate his character by a conduct so shameful as this must be? Or can it be believed that the British nation would consent to negotiate with a Government quarrelling with itself respecting the powers of its several departments? He believed that no gentleman could be found in the Committee seriously to imagine anything of this nature could take place.

He wished gentlemen, under these circumstances, to pause, and seriously inquire what consequences must probably result from such a state of things? We have, said Mr. G., serious disputes and important claims on the British Government. The nature of the thing admits of but three modes of settlement. We must settle our disputes by negotiation, we must tamely submit to the injuries we have received, and to others which will await us, or we must satisfy our demands by war.

The possibility of the first expedient will be excluded by a violation of the present Treaty. The second, he believed, to be too disgraceful to meet the approbation of the American mind. The people of this country would not put up with the injuries they had already received; but, if they should tamely submit to past indignities, what security can they receive against the future? It is a fact well known that the freebooters in the West Indies cannot be restrained by their own Government; they speculate on peace and on war, and the moment they find the present Treaty rejected, and all hope of future negotiation at an end, they will sweep the ocean of the property of our merchants, and find no difficulty in procuring in their Colonial Courts decrees of condemnation. Mr. G. said that he had no idea that Great Britain would declare war against this Government in consequence of the rejection of the Treaty; but when those unauthorized depredations on our commerce took place, which must follow the rejection of it, he firmly believed that, whether authorized by Government or not, America would make reprisals, the certain consequence of which must be war.

Considering the subject in these points of view, he had no hesitation in saying the resolution on the table ought to be adopted.

Mr. GALLATIN said he would not follow some of the gentlemen who had preceded him, by dwelling upon the discretion of the Legislature—a question which had already been the subject of their deliberation, and been decided by a solemn vote. Gentlemen who had been in the minority on that question might give any construction they pleased to the declaratory resolution of the House; they might again repeat that, to refuse to carry the Treaty into effect, was a breach of the public faith, which they conceived as being pledged by the PRESIDENT and Senate. This had been the ground on which a difference of opinion had existed since the beginning of the discussion. It

was because the House thought the faith of the nation could not, on those subjects submitted to the power of Congress, be pledged by any constituted authority other than the Legislature, that they had resolved that, in all such cases, it was their right and duty to consider the expediency of carrying a Treaty into effect. If the House thought the faith of the nation already pledged, they could not claim any discretion; there would be no room left to deliberate upon the expediency of the thing. The resolution now under consideration was merely “that it was expedient to carry the British Treaty into effect,” and not whether they were bound by national faith to do it. He would, therefore, consider the question of expediency alone; and, thinking as he did, that the House had full discretion on the subject, he conceived that there was as much responsibility in deciding in the affirmative as in rejecting the resolution; that they would be equally answerable for the consequences that might follow from either.

It was, however, true that there was a great difference between the situation of this country in the year 1794, when a negotiator was appointed, and that in which we were at present; and that consequences would follow the refusal to carry into effect the Treaty in its present stage, which would not have attended a refusal to negotiate, and to enter into such a Treaty. The question of expediency, therefore, assumed before them a different and more complex shape than when before the negotiator, the Senate or the PRESIDENT. The Treaty, in itself, and abstractedly considered, might be injurious; it might be such an instrument as, in the opinion of the House, ought not to have been adopted by the Executive; and yet, such as it was, they might think it expedient, under the present circumstances, to carry it into effect. He would, therefore, first take a view of the provisions of the Treaty itself, and in the next place, supposing it injurious, consider, in case it was not carried into effect, what would be the natural consequences of such refusal.

The provisions of the Treaty relate either to the adjustment of past differences or to the future intercourse of the two nations. The differences now existing between Great Britain and this country arose either from the non-execution of some articles of the Treaty of Peace, or from the effects of the present European war. The complaints of Britain in relation to the Treaty of 1783 were confined to the legal impediments thrown by the several States in the way of the recovery of British debts. The late Treaty had provided adequate remedy on that subject; the United States were bound to make full and complete compensation for any losses arising from that source, and every ground of complaint on the part of Great Britain was removed.

Having thus done full justice to the other nation, America had a right to expect that equal attention should be paid to her claims arising from infractions of the Treaty of Peace, viz.: compensation for the negroes carried away by the British; restoration of the Western posts, and indemnification for their detention.

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On the subject of the first claim, which had been objected to as groundless, he would observe, that he was not satisfied that the construction given by the British Government to that article of the Treaty was justified even by the letter of the article. That construction rested on the supposition that slaves came under the general denomination of booty, and were alienated the moment they fell in the possession of an enemy, so that all those who were in the hands of the British when the Treaty of Peace was signed, must be considered as British, and not American property, and were not included in the article. It would however appear, by recurring to *Vattel*, when speaking of the right of *postliminium*, that slaves were not considered as part of the booty which was alienated by the act of capture, and that they were ranked rather with real property, to the profits of which only the captors were entitled. Be that as it may, there was no doubt that the construction given by America was that which had been understood by the parties at the time of making the Treaty. The journals of Mr. Adams, quoted by a gentleman from Connecticut, [Mr. CORR.] proved this fully; for when he says that the insertion of this article was alone worth the journey of Mr. Laurens from London, can it be supposed that he would have laid so much stress on a clause which, according to the new construction now attempted to be given, meant only that the British would commit no new act of hostility? would not carry away slaves at that time in possession of Americans? Congress had recognised that construction by adopting the resolution which had been already quoted, and, which was introduced upon the motion of Mr. Alexander Hamilton; and it had not been denied that the British Ministry, during Mr. Adams's embassy, had also agreed to it.

But when our negotiator had, for the sake of peace, waived that claim; when he had also abandoned the right which America had to demand an indemnification for the detention of the posts, although he had conceded the right of a similar nature, which Great Britain had for the detention of debt; when he had thus given up every thing which might be supposed to be of a doubtful nature, it might have been hoped that our last claim—a claim on which there was not and there never had been any dispute—the Western posts should have been restored according to the terms of the Treaty of Peace. Upon what ground the British had insisted, and our negotiator conceded, that this late restitution should be saddled with new conditions, which made no part of the original contract, Mr. G. was at a loss to know. British traders were all allowed, by the new Treaty, to remain within the posts without becoming citizens of the United States, and to carry on trade and commerce with the Indians living within our boundaries, without being subject to any control from our Government. In vain was it said, that if that clause had not been inserted we would have found it our interest to effect it by our own laws. Of this we were alone competent judges; if that condition was harmless at present, it was

not possible to foresee whether, under future circumstances, it would not prove highly injurious; and, whether harmless or not, it was not less a permanent and new condition imposed upon us. But the fact was, that by the introduction of that clause, by obliging us to keep within our jurisdiction, as British subjects, the very men who had been the instruments used by Great Britain to promote Indian wars on our frontiers, by obliging us to suffer those men to continue their commerce with Indians living in our territory, uncontrolled by those regulations, which we had thought necessary, in order to restrain our own citizens in their intercourse with these tribes, Great Britain had preserved her full influence with the Indian nations; by a restoration of the posts under that condition, we had lost the greatest advantage that was expected from their possession, viz.: future security against the Indians. In the same manner had the British preserved the commercial advantages which resulted from the occupancy of these posts, by stipulating as a permanent condition a free passage for their goods across our portages, without paying any duty.

Another article of the new Treaty, which was connected with the provisions of the Treaty of 1783, deserved consideration—he meant what related to the Mississippi. At the time when the navigation of that river to its mouth was, by the Treaty of Peace, declared to be common to both nations, Great Britain had communicated to America a right, which she held by virtue of the Treaty of 1763, and as owner of the Floridas; but since that cession to the United States, England had ceded to Spain her claim on the Floridas, and did not own at the present time an inch of ground, either on the mouth or any part of that river. Spain now stood in the place of Great Britain, and by virtue of the Treaty of 1783, it was to Spain and America, and not to England and America, that the navigation of the Mississippi was at present to be common. Yet, notwithstanding that change of circumstances, we had repeated that article of the former Treaty in the late one, and had granted to Great Britain the additional privilege of using our ports on the eastern side of the river, without which, as they owned no land thereon, they could not have navigated it. Nor was this all. Upon a supposition that the Mississippi did not extend so far northward as to be intersected by a line drawn due west from the Lake of the Woods, or, in other words, upon a supposition that Great Britain had not a claim even to touch the Mississippi, we had agreed, not upon what would be the boundary line, but that we would hereafter negotiate to settle that line.

Thus leaving to future negotiation what should have been finally settled by the Treaty itself, in the same manner as all other differences were, was calculated for the sole purpose either of laying the foundation for future disputes, or of recognising a claim in Great Britain on the waters of the Mississippi, even if their boundary line left to the southward the sources of that river. Had not that been the intention of Great Britain, the line would have been settled at once by the Treaty,

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according to either of the two only rational ways of doing it in conformity to the Treaty of 1783, that is to say, by agreeing that the line would run from the northernmost source of the Mississippi either directly to the western extremity of the Lake of the Woods, or northwardly till it intersected the line to be drawn due west from that lake. But by repeating the article of the Treaty of 1783; by conceding the free use of our ports on the river, and by the insertion of the 4th article, we had admitted that Great Britain, in all possible events, had still a right to navigate that river from its source to its mouth. What might be the future effects of those provisions, especially as they regarded our intercourse with Spain, it was at present impossible to say; but, although they could bring us no advantage, they might embroil us with that nation, and we had already felt the effect of it in our late Treaty with Spain, since we were obliged, on account of that clause of the British Treaty, to accept as a gift and favor the navigation of that river, which we had till then claimed as a right.

The seventh article of the Treaty was intended to adjust those differences which arose from the effects of the present European war. On that article, it might also be observed, that whilst it provided a full compensation for the claims of the British, it was worded in such a manner, when speaking of the indemnification for spoliations committed on the American commerce, as would render it liable to a construction very unfavorable to our just claims on that ground. The Commissioners to be appointed by virtue of that article, were to take cognizance, and to grant redress only in those cases where, by reason of irregular or illegal captures or condemnations made under color of authority or commissions from the King of Great Britain, losses had been incurred, and where adequate compensation could not now be actually obtained by the ordinary course of judicial proceedings. If Great Britain should insist that, since the signing of the Treaty, they had, by admitting appeals to their Superior Courts, afforded a redress by the ordinary course of judicial proceedings; if those Courts were to declare, that the captures complained of, were neither illegal nor made under color, but by virtue of authority or commissions from the King; and if that construction should prevail with the Commissioners, the indemnification which our plundered merchants would actually receive, in consequence of the provisions of this article, would fall very far short of their expectations and of their just claims. Yet that article, considering the relative situation of the two countries, at the time when the negotiation took place, was as much as could reasonably have been expected by America. When a weak nation had to contend with a powerful one, it was gaining a great deal if the national honor was saved even by the shadow of an indemnification, and by an apparent concession on the part of the aggressor; and however objectionable that article might appear at first view, he was on the whole satisfied with it.

The remaining provisions of the Treaty had no connexion with past differences; they made no part of the Convention which had been the avowed object of Mr. Jay's mission; they applied solely to the future intercourse of the two nations as relating to commerce and navigation; and had they been entirely omitted, our differences would have been nevertheless adjusted. It was agreed on all hands, that so far as related to our commerce with Great Britain, we wanted no Treaty. The intercourse, although useful perhaps to both parties, was more immediately necessary to England, and her own interest was a sufficient pledge of her granting us at all times a perfect liberty of commerce to her European ports. If we want to treat with her, it must be in order to obtain some intercourse with her colonies, and some general security in our navigation.

The twelfth and thirteenth articles had been obtained by our negotiator with a view to the first object. The twelfth article, however, which related to our intercourse with the West Indies, was found, upon examination, to be accompanied by a restriction of such a nature, that what had been granted by Great Britain as a favor, was rejected by the Senate as highly injurious. The thirteenth article, which related to the East Indies, and remained part of the Treaty, was, like the twelfth, conferring a favor limited by restrictions, and so far as he could depend upon the opinion of the best-informed judges on that subject, those restrictions put the trade in a more disadvantageous situation than it was before the Treaty. As the West India article had declared that we should not re-export any produce of those islands to Europe, so the East India article, at the same time it granted us the privilege, which we enjoyed before, and which we enjoyed because it was the interest of the East India Company to grant it to us, that of being admitted in the British seaports there, had forbidden our carrying any articles from thence to any place except to America; which regulation amounted to a total prohibition to export East India articles to China, or to obtain freights back to Europe; and, upon the whole, he could not help thinking, from what had fallen on that floor, and what he had heard elsewhere from gentlemen of great commercial knowledge, that if the East India commerce had been as generally understood in America as the West India trade, that so much boasted-of article would have met the same fate in the Senate with the twelfth article.

But if, leaving commercial regulations, we were to seek in the Treaty for some provisions securing to us the free navigation of the ocean against any future aggressions on our trade, where were they to be found? He could add nothing to what had been said on the subject of contraband articles: it was, indeed, self-evident, that connecting our Treaty with England on that subject with those we had made with other nations, it amounted to a positive compact to supply that nation exclusively with naval stores whenever they were at war. Had the list of contraband articles been re-

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duced, had naval stores and provisions—our two great staple commodities—been declared not to be contraband, security would have been given to the free exportation of our produce; but instead of any provision having been made on that head, an article of a most doubtful nature, and on which he would remark afterwards, had been introduced. But he meant, for the present, to confine his observations to the important question of free bottoms making free goods. It was with the utmost astonishment he had heard the doctrine advanced on this floor, that such a provision, if admitted, would prove injurious to America, inasmuch as, in case of war between this country and any other nation, the goods of that nation might be protected by the English flag. It was not to a state of war that the benefits of that provision would extend; but it was the only security which neutral nations could have against the legal plundering on the high seas, so often committed by belligerent Powers. It was not for the sake of protecting an enemy's property; it was not for the sake of securing an advantageous carrying trade; but it was in order effectually to secure ourselves against sea aggressions that that provision was necessary. Spoiliations might arise from unjust orders given by the Government of a belligerent nation to their officers and cruisers, and these might be redressed by application to and negotiation with that Power. But no complaints, no negotiations, no orders of Government itself, could give redress, when those spoiliations were grounded on a supposition that the vessels of a neutral nation had an enemy's property on board; as long as such property was not protected by the flag of the neutral nation, as long as it was liable to be captured, it was not sufficient, in order to avoid detention and capture, to have no such property on board. Every privateer, under pretence that he suspected an enemy's goods were part of a cargo, might search, vex, and capture a vessel; and if in any corner of the dominions of the belligerent Powers, a single Judge could be found inclined if not determined to condemn, at all events, before his tribunal, all vessels so captured would be brought, and the same pretence which had caused the capture would justify a condemnation. The only nation who persisted in the support of that doctrine, as making part of the Law of Nations, was the first maritime Power in Europe, whom their interest, as they were the strongest, and as there was hardly a maritime war in which they were not involved, led to wish for a continuation of a custom, which gave additional strength their overbearing dominion over the seas. All the other nations had different sentiments and a different interest.

During the American war, in the year 1780, so fully convinced were the neutral nations of the necessity of introducing that doctrine of free bottoms making free goods, that all of them, excepting Portugal, who was in a state of vassalage to, and a mere appendage of Great Britain, had united in order to establish the principle, and had formed for that purpose the alliance known by the name of the Armed Neutrality. All the belli-

gerent Powers, except England, had recognised and agreed to the doctrine. England itself had been obliged, in some measure, to give for a while a tacit acquiescence. America had completely, at the time, admitted the principle, although they were then at war [Mr. G. quoted on this subject the Journals of Congress of the year 1780, page 210, and of the year 1781, page 80] and it had been introduced in every other Treaty we had concluded since our existence as a nation. Since the year 1780, every nation, so far as his knowledge went, had refused to enter into a Treaty of Commerce with England, unless that provision was inserted. Russia, for that reason, would not renew their Treaty, which had expired in 1786, although he believed that, during the present war, and in order to answer the ends of the war, they had formed a temporary Convention, which he had not seen, but which, perhaps, did not include that provision. England had consented to it in their Treaty with France in 1788, and we were the first neutral nation who abandoned the common cause, gave up the claim, and, by a positive declaration inserted in our Treaty, had recognised the contrary doctrine. It had been said, that under the present circumstances, it could not be expected that Great Britain would give up the point; perhaps so; but the objection was not, that our negotiator had not been able to obtain that doctrine, but that he had consented to enter into a Treaty of Commerce (which we did not want, and which had no connexion with an adjustment of our differences with Great Britain) without the principle contended for making part of that Treaty. Unless we could obtain security for our navigation, we wanted no Treaty; and the only provision which could give us that security, should have been the *sine qua non* of a Treaty. On the contrary, we had disgusted all the other neutral nations of Europe, without whose concert and assistance there was but little hope that we should ever obtain that point, and we had taught Great Britain that we were disposed to form the most intimate connexions with her, even at the expense of recognising the principle the most fatal to the liberty of commerce, and to the security of our navigation.

But, if we would not obtain anything which might secure us against future aggressions, should we have parted, without receiving any equivalent, with those weapons of self-defence, which although they could not repel, might, in some degree, prevent any gross attacks upon our trade, any gross violation of our rights as a neutral nation? We had no fleet to oppose or to punish the insults of Great Britain; but, from our commercial relative situation, we had it in our power to restrain her aggressions by restrictions on her trade, by a total prohibition of her manufactures, or by a sequestration of the debts due to her. By the Treaty—not satisfied with receiving nothing; not satisfied with obtaining no security for the future—we had, of our own accord, surrendered those defensive arms for fear they might be abused by ourselves. We had given up the two first for the whole time during which we might want

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them most—the period of the present war—and the last, the power of sequestration, we had abandoned forever: every other article of the Treaty of Commerce was temporary, this perpetual.

Mr. G. was not going to enter into a discussion of the immorality of sequestering private property. What could be more immoral than war? or the plundering of the high seas legalized under the name of privateering? Yet self-defence justified the first, and the necessity of the case might at least in some instances, and where it was the only practicable mode of warfare left to a nation, apologize even for the last. In the same manner the power of sequestration might be resorted to, as the last weapon of self-defence, rather than to seek redress by an appeal to arms. It was the last peace-measure that could be taken by a nation; but the Treaty, by declaring that in case of national differences it should not be resorted to, had deprived us of the power of judging of its propriety, had rendered it an act of hostility, and had effectually taken off that restraint which a fear of its exercise laid upon Great Britain.

Thus it appeared that, by the Treaty, we had promised full compensation to England for every possible claim they might have against us, that we had abandoned every claim of a doubtful nature, and that we had consented to receive the posts, our claim to which was not disputed, under new conditions and restrictions never before contemplated. That, after having obtained, by those concessions, an adjustment of past differences, we had entered into a new agreement, unconnected with those objects, which had heretofore been subjects of discussion between the two nations; and that, by that Treaty of Commerce and Navigation we had obtained no commercial advantage which we did not enjoy before; we had obtained no security against future aggressions, no security in favor of the freedom of our navigation, and we had parted with every pledge we had in our hands, with every power of restriction, with every weapon of self-defence, which was calculated to give us any security.

There was yet another article which stood by itself, unconnected either with adjustment of past disputes, or with commercial regulations; he meant the ninth article, which provides that British subjects now holding lands in the United States should continue to hold them, and might sell or devise the same, and that neither they, nor their heirs or assigns should, so far as might respect the said lands, and the legal remedies incident thereto, be regarded as aliens. Mr. G. said he was not a lawyer, and, in expressing an opinion, he meant nothing more than to communicate his doubts, and ask for an explanation. There would be no difficulty in finding the meaning of the article, did it apply only to those British subjects, who had acquired lands under the laws of the States; but the former connexion of this country with England rendered the subject difficult to be explained, even by men of legal abilities; for its explanation must depend on the consequences of a principle unknown to the laws of England.

The principle of the English law was, that no subject could shake off his allegiance; that is to say, that no man, who was once a citizen, could become an alien. Yet, by the effect of the Revolution, British subjects, who before 1776, had a right to hold lands in America as part of the British Empire had become aliens in the United States, and the effect of that alienage upon their titles to such lands, and how far that effect was changed by the operation of the Treaty, seemed to him to be questions of a very nice nature. He would, however, beg leave to suggest, what to him appeared to be the effect of the Treaty. So far as lands had been confiscated by the laws of any State, and those laws carried into effect, and so far as, such lands having been considered as escheated, an office had been found and the escheat been completed, he conceived the Treaty would create no alteration; but where the lands had not been confiscated, either because no laws had been passed for that purpose, or because they had not been carried into effect before the Treaty of 1783, and where the legal formalities of finding an office, &c., necessary to complete an escheat had been neglected, it seemed to him the Treaty might operate in three ways. Firstly, it would prevent any State from completing an escheat by finding an office, &c., when they had neglected doing it. Secondly, it would enable the British subjects to sell or devise, and therefore to convert their life estate into a fee-simple forever. And thirdly, it would enable those subjects to institute suits in Courts for the recovery of those lands, providing them with a legal remedy they had not before, since their alienage would have been a sufficient bar against bringing real actions. If the Treaty might be supposed to have that effect, its tendency, so far as related, not to private estates, but to the former proprietary estates, might prove vexatious and injurious to several of the States. It would strengthen the proprietary claims of the Penn family, not in Pennsylvania, but in the State of Delaware. It might have some effect on the decision of the Fairfax claim in Virginia, and even on such parts of the lands of Maryland which had been sold, although formerly the property of the Baltimore family, as vacant lands, and not as confiscated lands.

In North Carolina the proprietary claim of the Grenville family, which included the best half of that State, and of the Southwestern Territory, might be revived by the Treaty; for although a law had passed in that State to confiscate the lands of all the British subjects who would be absent on a certain day; yet the proprietary lands were not meant to be comprehended within that provision; the Commissioners, who were to sell the confiscated property, never disposed of a single acre of the lands which were granted by another law of the State as vacant, and not as confiscated lands, without having been actually escheated to the State by an office being found, or any other formality whatever; and they were even expressly distinguished from land to be confiscated by the very act passed for the purpose of confiscating. [Mr. G. here read the clause of the

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act he alluded to.] Supposing, however, every thing he had said on that subject as very doubtful, it was not less true that this article, which under an appearance of reciprocity, granted a positive advantage to Great Britain, without any equivalent being given, was, if not an infraction, at least a restriction over the Legislative powers; and an exception to the laws of the different States on a subject of a delicate nature, might involve not only some of our citizens, but even several of the States, in complex law suits and serious embarrassment, and, although it might thus create much mischief, would give us no possible benefit.

From the review he had taken of the Treaty, and the opinions he had expressed, Mr. G. said, it was hardly necessary for him to add that he looked upon the instrument as highly injurious to the interests of the United States, and that he earnestly wished it never had been made; but whether, in its present stage, the House ought to refuse to carry it into effect, and what would be the probable consequences of a refusal, was a question which required the most serious attention, and which he would now attempt to investigate.

Should the Treaty be finally defeated, either new negotiations would be more successful, or Great Britain would refuse to make a new arrangement, and leave things in the situation in which they were, or war would be the consequence. Mr. G. said that he would, in the course of his observations, make some remarks on the last supposition; he did not think that the first would be very probable at present, and he was of opinion that, under the present circumstances, and until some change took place in our own or in the relative political situation of the European nations, it was to be apprehended that, in such a case, new negotiations would either be rejected or prove unsuccessful. Such an event would have perhaps followed a rejection of the Treaty even by the Senate or by the President. After the negotiator employed by the United States had once affixed his signature, it must have become very problematical, unless he had exceeded his powers, whether a refusal to sanction the contract he had made would not eventually defeat, at least for a time, the prospect of a new Treaty. He conceived that the hopes of obtaining better conditions, by a new negotiation were much less in the present stage of the business than they had been when the Treaty was in its inchoate form before the Executive; and in order to have a just idea of the consequences of a rejection at present, he would contemplate them upon that supposition which appeared to him most probable, viz: that no new Treaty would take place for a certain period of time.

In mentioning his objections to the Treaty itself, he had already stated the advantages which, in his opinion, would result to the United States from the non-existence of that instrument; he would not repeat, but proceed at once to examine what losses might accrue that could be set off against those advantages.

As he was not sensible that a single commercial advantage had been obtained by the Treaty, he could not mention the loss of any, as a mischief

that would attend its rejection. If, however, the East India article was supposed to be beneficial, it must, on the other hand, be conceded that we had enjoyed every benefit arising from it for a number of years, without Treaty, and consequently, because it was the interest of the East India Company that we should enjoy them; and that it was not probable that circumstances would so far change there, during the short period to which that article was limited, as to induce that Company to adopt a different policy towards us.

The indemnification to be obtained from Great Britain for spoliation on our trade, if considered as a national reparation for a national aggression, was, certainly, as he had already stated it, an important object gained by the Treaty. But if it was to be viewed as a money transaction, and its loss as a national loss of money, it would be well to examine, whether in that point of view, that of money, we would not be the gainers, on the whole, by not carrying the Treaty into effect? Mr. G. said that he had made no objection to that article of the Treaty which relates to British debts. Whatever the amount might be, if it was just that we should pay them, it was just to pay that amount; but when we were examining the situation in which we should be, if we had no Treaty, when we were calculating the losses we were to experience by obtaining no compensation for our claims, it was right to consider the amount of those claims, and to compare it with the probable amount of the claims of the other party, and of the sums of money which a non execution of the Treaty, and a refusal on the part of Great Britain to do us justice, to indemnify us for our own losses, and to enter into new negotiations, would justify us in withholding. That subject had already undergone a full discussion, and he would recall the attention of the Committee only to the demand of Great Britain for interest on the British debts. It was well known that our courts had uniformly refused to allow the British creditors the interest which had accrued on their demands during the late war, that is to say, during eight years. Although we had contended that those decisions could not be considered as legal impediments, yet it had been insisted by Great Britain that they were. The two Governments had come to issue on that point, as might be seen by recurring to the printed correspondence of Mr. JEFFERSON. It was one of the points to which the jurisdiction of the Commissioners must extend, since, on account of decisions of our Courts, it was one of the cases where compensation could not be obtained, and had been refused by the ordinary course of judicial proceedings; and for greater security the Commissioners were, by the Treaty, empowered to take into their consideration all claims, whether of principal or interest, or balances of principal or interest. Those Commissioners must be considered less as judges than as political agents, who would come with a determination to support the claims contended for by their respective nations. They would, therefore, disagree on the subject of war-interest, and it would be left solely to the fifth Commissioner—that is to say, to lot—to decide

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whether that interest should be paid by the United States or not. Eight years' interest amounted to one half of the whole amount of debts due by America to Great Britain at the beginning of the war; for it must be remarked that that claim extended to all debts, whether good or bad, because it had been refused on all, and could be recovered by the ordinary course of judicial proceedings on none. What those debts amounted to was very uncertain, and he had seen a variety of calculations on that subject. If they were estimated, as they had been by some, at five millions sterling, one half of them would amount to more than twelve millions of dollars; and when we took into consideration the amount of principal we should have to pay, on the principles stated by a gentleman from Virginia, [Mr. NICHOLAS,] his calculation of near fifteen millions of dollars in the whole would not be exaggerated. But even taking the amount of those debts at the lowest estimate, the amount of war-interest, and of the principal we would have to pay, far exceeded the amount which the most sanguine amongst us expected to recover from the Government of Great Britain, by virtue of the Treaty, on account of the spoiliations committed on our trade.

The only positive loss, therefore, which in his opinion would arise from our having no Treaty, was that of the Western posts. He had already stated that, surrendered in the manner settled by the Treaty, he conceived them to be of very insignificant value in a commercial point of view, and of little use, if any, as a security against the Indians; for it must be remembered that our own laws, for the purpose of preserving peace with those tribes, had enacted, under severe penalties, that our own citizens should, on no account whatever, cross over the boundary line between them and ourselves, (although within the territory ceded to us by Great Britain,) unless they had special licenses from our Government. It was, therefore, our own opinion that peace could not be preserved with the Indians, if ever our own citizens had a free and uncontrolled intercourse with them. And yet it was a positive condition of the Treaty, that the British traders settled at Detroit and the other posts—men, who from habit, were attached to Great Britain and inimical to the United States, who had given repeated proofs of that enmity, who possessed an unbounded influence amongst the Indians, and had been the chief promoters of the Indian war—that those men should remain there as British subjects; and that they and all other British subjects should have the privilege forever to pass over that line, which we had forbidden our citizens to cross, and should continue to carry on with the Indians living within our territory a free trade and commerce, uncontrolled by our laws and by those regulations which we had imposed or might impose on our citizens. In other words, we had agreed that these men should preserve their baneful influence over the Indians, and their allegiance to Great Britain; and we might, therefore, expect that influence to be exerted as would suit the interest, and in conformity to the directions of their Sovereign.

He must therefore repeat that, as he had thought that at any time since 1789, we might have had the posts without those conditions, provided we had then agreed, as we had by the late Treaty, to make a compensation for the British debts, he had much rather that we could again be placed in the situation in which we were two years ago. And he would not hesitate to declare that, in his opinion, our claim to the posts and the chance we had to claim them, by negotiation, in the year 1793, was better than their possession upon the terms of the Treaty. But as the question now was not what would be best to be done if no Treaty had been made—as the negotiator had put us in a worse situation than we were in before that Treaty; as the subject of the present examination shows the consequences that would follow, if no Treaty at all was made; and as one of those consequences would undoubtedly be a further detention of the posts, and less hope to obtain them in future—he would certainly agree that it was better to have them, even encumbered with these conditions, than not to have them at all. For although they might not be of any immediate advantage, either as a commercial object or as giving security against the Indians, their possession would enable us to prevent a further extension of the British settlements within our territory, and, by forming settlements of our own, to acquire, by degrees, sufficient strength in that quarter to have nothing to fear either from the British or from the Indians.

The further detention of the posts, the national stain that would result from receiving no reparation for the spoiliations on our trade, and the uncertainty of a final adjustment of our differences with Great Britain, were the three evils which struck him as resulting from a rejection of the Treaty; and when to these considerations he added that of the present situation of the country, of the agitation of the public mind, and of the advantages that would arise from union of sentiments, however injurious and unequal he conceived the Treaty to be, however repugnant it might be to his feelings and perhaps to his prejudices, he felt induced to vote for it, and would not give his assent to any proposition which would imply its rejection. But the conduct of Great Britain since the Treaty was signed, the impressment of our seamen, and their uninterrupted spoiliations on our trade, especially by seizing our vessels laden with provisions—a proceeding which they might, perhaps justify by one of the articles of the Treaty—were such circumstances as might induce them to pause a while, in order to determine whether it was proper immediately, and without having obtained any explanation thereon, to adopt the resolution on the table, and to pass at present all the laws necessary to carry the Treaty into effect.

The 18th article of the Treaty, the provision article, as it was called, had already been fully investigated by a gentleman from Virginia, [Mr. NICHOLAS,] and he had been astonished that those gentlemen who had spoken in favor of the Treaty, had given no direct answer to his remarks on that point.

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Mr. G. proceeded then to state the second clause of that article, which declares, that "whenever provisions becoming contraband according to the existing Laws of Nations, should for that reason be seized, the same should not be confiscated, but the owners indemnified;" and said that this clause of the article did not contemplate provisions, or other articles not generally contraband, when attempted to be carried to a besieged place; for the third clause of the same article provides for the last mentioned case, and declares "that a vessel thus laden, and sailing for a besieged place, shall not be detained, nor her cargo, if not contraband, confiscated, unless, after notice, she shall again attempt to enter:" which implies that, in case of notice thus given, provisions may be confiscated, whilst the provisions contemplated in the second clause are not to be confiscated. It is therefore admitted by that article, that there are cases, other than that of provisions and other articles not generally contraband, carried to a besieged place, in which those provisions and articles may be regarded as contraband. It was admitting a principle unknown to the Laws of Nations, infringing our neutrality, destructive of our trade, and liable to every misconception. The British had shown what they meant by provisions becoming contraband according to the existing Laws of Nations, when they had taken our vessels laden with provisions, and given us an indemnification of ten per cent. So immediately connected was that proceeding of the British and that article, that even the gentleman from Connecticut [Mr. HILLHOUSE] could not separate them in his own mind; and when speaking of the indemnification we were to obtain in such cases as were contemplated by the article, he had repeatedly called it "ten per cent," thinking only of the compensation given by the British in the case before mentioned, as one contemplated in the article, since the words ten per cent. were not to be found in the clause itself. It was not, however, material at present to decide whether a fair construction of the article justified the conduct of the British or not. The fact was uncontroverted; they still continued to impress our seamen and to capture our vessels. If they pretended to justify that conduct by the Treaty, it became necessary to obtain an explanation of the doubtful articles; if there was nothing in the Treaty to justify it, their acts were acts of hostility—were an infraction of that Treaty. And, even according to the doctrine of those gentlemen who thought that, in common cases, the House had no discretion, the Treaty once broken by one party was no longer binding on the other; and it was the right as well as the duty of this House not to proceed to pass the laws necessary to carry it into effect, until satisfactory assurances were obtained that these acts should cease, and until Great Britain had evinced a friendly disposition towards us.

Whatever evils might follow a rejection of the Treaty, they would not attend a postponement. To suspend our proceedings would not throw us in a situation which would require new negotiations, new arrangements on the points already

settled, and well understood by both parties. It was merely a delay until an explanation of the late conduct of the British towards us was obtained, or until that conduct was altered. If, on the contrary, we consented to carry the Treaty into effect, under the present circumstances, what would be our situation in future? It was, by committing the most wanton and the most unprovoked aggressions on our trade; it was, by seizing a large amount of our property as a pledge for our good behaviour, that Great Britain had forced the nation into the present Treaty. If, by threatening new hostilities, or rather by continuing her aggressions, even after the Treaty was made, she could force us also to carry it into effect, our acquiescence would be tantamount to a declaration that we meant to submit in proportion to the insults that were offered to us; and this disposition being once known, what security had we against new insults, new aggressions, new spoiliations, which, probably, would lay the foundation of some additional demands on the part of the aggressor, and of some additional sacrifices on ours? It had been said, and said with truth, that, to put up with the indignities we had received, without obtaining any reparation, which would probably be the effect of defeating the Treaty, was highly dishonorable to the nation. In his opinion, it still was more so, not only tamely to submit to a continuation of those national insults, but whilst they thus continued uninterrupted, to carry into effect the instrument we had consented to accept as a reparation for former ones. When the general conduct of Great Britain towards us, from the beginning of the present war, was considered; when the means by which she had produced the Treaty were reflected on; a final compliance, on our part, while she still persisted in that conduct, whilst the chastening rod of that nation was still held over us, was, in his opinion, a dereliction of national interest, of national honor, of national independence.

But it was said that war must be the consequence of our delaying to carry the Treaty into effect. Did the gentlemen mean that, if we rejected the Treaty, if we did accept the reparation there given to us, in order to obtain redress, we had no alternative left but war? If we must go to war in order to obtain reparation for insults and spoiliations on our trade, we must do it, even if we carry the present Treaty into effect; for the Treaty gives us no reparation for the aggressions committed since it was ratified, has not produced a discontinuance of those acts of hostility, and gives us no security that they shall be discontinued. But the argument of those gentlemen, who supposed that America must go to war, applied to a final rejection of the Treaty, and not to a delay. He did not propose to refuse the reparation offered by the Treaty, and to put up with the aggressions committed; he had agreed that that reparation, such as it was, was a valuable article of the Treaty; he had agreed that, under the present circumstances, a greater evil would follow a total rejection, than an acquiescence to the Treaty. The only measure which had been mentioned in pre-

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ference to the one now under discussion, was a suspension, a postponement whilst the present spoiliations continued, in hopes to obtain for them a similar reparation, and assurances that they would cease.

But, was it meant to insinuate that it was the final intention of those who pretended to wish only for a postponement, to involve this country in a war? There was no period of the present European war at which it would not have been weak and wicked to adopt such measures as must involve America in the contest, unless forced into it for the sake of self-defence; but, at this time, to think of it, would fall but little short of madness. The whole American nation would rise in opposition to the idea; and it might, at least, have been recollected that war could not be declared except by Congress, and that two of the branches of Government were sufficient to check the other in any supposed attempt of that kind.

If there was no necessity imposed upon America to go to war; if there was no apprehension she should, by her own conduct, involve herself in one, the danger must arise from Great Britain; and the threat is, that she shall make war against us, if we do not comply. Gentlemen first tell us that we have made the best possible bargain with that nation; that she has conceded everything, without receiving a single *iota* in return; and yet they would persuade us that she will make war against us, in order to force us to accept that contract, so advantageous to us, and so injurious to herself. It would not be contended that a delay, until an amicable explanation was obtained, could afford even a pretence to Great Britain for going to war; and we all knew that her own interest would prevent her. If another campaign took place, it was acknowledged that all her efforts were to be exerted against the West Indies.

She had proclaimed her own scarcity of provisions at home, and she must depend on our supplies to support her armament. It depended upon us to defeat her whole scheme, and this was a sufficient pledge against open hostility if the European war continued. If peace took place, there would not be even the appearance of danger; the moment when a nation was happy enough to emerge from one of the most expensive, bloody, and dangerous wars in which she ever had been involved, would be the last she would choose to plunge afresh in a similar calamity.

But to the cry of war, the alarmists did not fail to add that of confusion; and they had declared, even on this floor, that, if the resolution was not adopted, Government would be dissolved. Government dissolved in case a postponement took place! This idea was too absurd to deserve a direct answer. But he would ask those gentlemen, by whom the Government was to be dissolved? Certainly, not by those who would vote against the resolution; for, although they were not, perhaps, fortunate enough to have obtained the confidence of the gentlemen who voted against them, still, it must be agreed, that those who succeeded in their wishes, who defeated a measure they disliked, would not wish to destroy that Government, which

they held, so far, in their hands, as to be able to carry their own measures. For them to dissolve the Government would be to dissolve their own power. By whom, then, he would ask again, was the Government to be dissolved? The gentlemen must answer, by themselves, or they must declare that they meant nothing but to alarm. Was it really the language of those men, who professed to be, who distinguished themselves by the self-assumed appellation of friends to order, that if they did not succeed in all their measures, they would overset the Government? And had all their professions been only a veil to hide their love of power? a pretence to cover their ambition? Did they mean, that the first event which would put an end to their own authority, should be the last act of Government? As to himself, he did not believe that they had such an intention; he had too good an opinion of their patriotism to permit himself to admit such an idea for a single moment; but he thought himself justifiable in entertaining a belief, that some amongst them, in order to carry a favorite, and what they thought to be an advantageous measure, meant to spread an alarm, which they did not feel; and he had no doubt that many had contracted such a habit of carrying every measure of Government as they pleased, that they really thought that everything must be thrown into confusion the moment they were thwarted in a matter of importance. He hoped that experience would, in future, cure their fears. But, at all events, be the wishes and intentions of the members of this House what they may, it was not in their power to dissolve the Government. The people of the United States, from one end of the Continent to the other, were strongly attached to their Constitution; they would restrain and punish the excesses of any party, of any set of men in the Government, who would be guilty of the attempt; and on them he would rest as a full security against every endeavor to destroy our Union, our Constitution, or our Government.

But, although he was not afraid of a dissolution, he felt how highly desirable a more general union of sentiment would be; he felt the importance of an agreement of opinion between the different branches of Government, and even between the members of the same branch. He would sacrifice much to obtain that object; it had been one of the most urging motives with him to be in favor, not of a rejection, but only of a suspension, of a delay. But even as a matter of opinion, it was difficult to say which mode of proceeding, in this House, would best accord with the general sentiments of the people. So far as related to the petitions before them, the number of signatures against the Treaty exceeded, at the moment he was speaking, the number of those in favor of the Treaty. Amongst the last, some had come from one part of the Union, where it would seem, both from the expressions in the petition itself, and from the proceedings there, that a great inducement in the petitioners to sign, was a wish to carry the Treaty with Spain into effect, as they appear to have supposed that its fate depended upon that of the British Treaty. How they would have acted

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upon the British Treaty alone, and unconnected with the other, he did not know, nor had he any evidence which could enable him to form an opinion thereon. All he knew was, that, until the Spanish Treaty was made, they had been perfectly silent on the subject of the other Treaty, and had never expressed an opinion upon it alone.

True it was, that an alarm which had produced a combination, had lately taken place amongst the merchants of this and some other seaports. What effect it would have, and how successful they would eventually be, in spreading this alarm amongst the people at large, he could not tell; but there were circumstances accompanying their petition, which, in his opinion, much diminished the weight they otherwise might have had. They had, undoubtedly, a right to petition upon every public measure, where they thought themselves interested, and their petitions would deserve equal regard, with those of their fellow-citizens throughout the United States. But, on this occasion, in order to create an alarm, in order to induce the people to join them, in order to force the House to pass the laws relative to the Treaty, they had formed a dangerous combination, and affected to cease insuring vessels, purchasing produce, and transacting any business. A gentleman from New York [Mr. WILLIAMS] had been so much alarmed himself, that he had predicted a fall in the price of every kind of produce, and seems, indeed, to have supposed, that the clamors of a few individuals here, would either put an end to, or satisfy the wants of those nations which depended on us for supplies of provisions. Yet, it had so happened, and it was a complete proof that the whole was only an alarm, that, whilst they were debating, the price of flour, which was of very dull sale two weeks ago, had risen in equal proportion with the supposed fears of the purchasers.

He could not help considering the cry of war, the threats of a dissolution of Government, and the present alarm, as designed for the same purpose, that of making an impression on the fears of this House. It was through the fear of being involved in a war, that the negotiation with Great Britain had originated; under the impression of fear, the Treaty had been negotiated and signed; a fear of the same danger, that of war, had promoted its ratification; and now, every imaginary mischief which could alarm our fears, was conjured up, in order to deprive us of that discretion, which this House thought they had a right to exercise, and in order to force us to carry the Treaty into effect.

If the people of the United States wished this House to carry the Treaty into effect immediately, and notwithstanding the continual aggressions of the British; if their will was fairly and fully expressed, he would immediately acquiesce; but since an appeal was made to them, it was reasonable to suspend a decision until their sentiments were known. Till then, he must follow his own judgment; and, as he could not see that any possible evils would follow a delay, he would vote against the resolution before the Committee, in

order to make room, either for that proposed by his colleague, [Mr. MACLAY,] or for any other expressed in any manner whatever, provided it embraced the object he had in view, to wit: the suspension of the final vote, a postponement of the laws necessary to carry the Treaty into effect, until satisfactory assurances were obtained, that Great Britain meant, in future, to show us that friendly disposition, which it was his earnest wish might, at all times, be cultivated by America towards all other nations.

At the conclusion of Mr. GALLATIN's speech, a call being heard for the question, a division took place for the Committee's rising, when there were fifty-six members in favor of it; it, of course, rose, and had leave to sit again.

THE SON OF THE MARQUIS LAFAYETTE.

Mr. LIVINGSTON, Chairman of the Committee for carrying into effect a resolution respecting the son of the Marquis LAFAYETTE, reported that he had arrived in this country; that he had received the patronage of the PRESIDENT OF THE UNITED STATES; that he was in New Jersey for education, and to show that he had no occasion for pecuniary assistance, the Committee subjoined a well-written, affecting letter to the Chairman of the Committee, in answer to one from him, expressive of his gratitude for the kind attention shown to him by the Legislature of the United States, by the PRESIDENT, and to every person to whom he was made known; that he had no wants; that he was as happy as he could be; that, if he should in future have occasion for assistance, he would apply to Congress, who had been so kind and attentive to his welfare.*

WEDNESDAY, April 27.

PIERS IN THE DELAWARE.

Mr. SWANWICK called up a report of the Sec-

*The following is the letter received by the committee appointed to inquire into the situation of the son of General LAFAYETTE:

[TRANSLATION]

RAMAPAGE, (New Jersey,) March 28, 1796.

"SIR: I have just received the honorable resolution which the merits of my father have procured for me. Deign to express to the Representatives of the people of America his gratitude—my youth forbids me yet to speak of mine. Every day recalls to me what he taught me, at every period of his life, so full of vicissitudes, and what he has repeated in a letter, written from the depth of his prison. 'I am convinced (he says) that the goodness of the United States, and the tenderness of my paternal friend, will need nothing to excite them.'

"Arrived in America, some months since, I live in the country, in New Jersey, occupied in the pursuits of my education. I have no wants; if I had felt any, I should have answered to the paternal solicitude of the President of the United States, either by confiding them to him, or by accepting his offers. I shall hereafter consider it a duty, to impart them to the House of Representatives, which deigns to inquire into my situation.

"I am as happy as a continual inquietude relative to the object of my first affections will permit. I have found benevolence wherever I have been known, and have often had the satisfaction of hearing those, who were ignorant of my connections, speak of their interest in the fate of my father, express their admiration of, and partake the gratitude I feel, for the generous Dr. Bollman, who has done so much to break his chains.

"It is amid all these motives of emulation, that I shall continue my studies. Every day more convinced of the duties which are imposed by the goodness of Congress, and the names I have the honor to bear.

"GEO. WASHINGTON MOTIER LAFAYETTE.
"The Hon. EDWARD LIVINGSTON, Chairman," &c.

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retary of State, on the memorial of sundry merchants of the city of Philadelphia, praying that four additional piers might be erected in the river Delaware. The report was in favor of the petitioners, and recommended that a sum of 16,000 dollars should be appropriated for the purpose.

A considerable debate took place upon this report. The measure was objected to by Messrs. LIVINGSTON, S. SMITH, and NICHOLAS, on the ground of partiality to the port of Philadelphia. It was said that two cents per ton were imposed upon vessels coming into the port of Baltimore, to defray the expenses of keeping in good order that harbor; that there were certain impediments in Hudson's river, and others, which that House might, with the same propriety, be applied to remove; and, that if the General Government erected piers in the Delaware, it ought, also, to pay attention to the wants of other ports in the same respect. It was replied by Messrs. SWANWICK, SITGREAVES, HARTLEY, GALLATIN, and KITTERA, that this application was made in consequence of an act passed in Congress, in August, 1789, by which the General Government undertook to keep in repair the piers in the Delaware; that, before the General Government was adopted, these piers were under the direction of the State Government, and supported by an impost for the purpose; but, when it went into operation, the business was put in the hands of the General Government. It was asserted that the erection of these piers was asked for upon the same ground as the erection of light-houses, which was frequently agreed to.

Mr. CORN, at length, moved that the Committee rise, in order that the report might be referred to the Committee of Commerce and Manufactures; which was agreed to.

He afterwards proposed a resolution to the following effect, which was agreed to, and referred to the same Committee:

"Resolved, That the Committee of Commerce and Manufactures be directed to inquire, and report, whether any, and what farther, measures are necessary to secure, protect, and preserve the vessels of the United States in their entrance to any of the ports of the United States."

TREATY WITH GREAT BRITAIN.

The House then resolved itself into a Committee of the Whole on the state of the Union; when the resolution for carrying into effect the British Treaty being under consideration—

Mr. GILBERT observed that he, certainly, had as good a claim to sensibility and regard for the honor, interest, welfare, and dignity of his country, as the gentleman who spoke yesterday from Pennsylvania, [Mr. GALLATIN,] and who seemed so concerned for the honor of the United States. Sir, said he, birth, nurture, education, and every drop of blood on earth, to which I am related, well entitle me to this claim. He hoped, therefore, neither that gentleman, nor any other, would, from the opinion he entertained, and the decision he should give on the subject before

them, suppose him insensible to those dear, those precious considerations. Upon a question so interesting to the American nation, notwithstanding everything already advanced, he said he could hardly reconcile himself to a silent vote. He very well knew that the subject had been presented in every possible point of view, and that nothing, indeed, had, upon any former occasion, so much agitated, or so much excited the American mind.

Why a Treaty containing nothing unconstitutional, (as in respect to this, is allowed on all hands,) made in the ordinary course of regular negotiation, should thus interest all the passions and feelings, thus excite the sensibility of the people of this country, infinitely more than the most important transactions of the same people at any time heretofore, infinitely more than their own social or political compacts, infinitely more than their great Declaration of Independence, that fiat which gave birth to the nation, he said, he would leave to sober reflection, and to the recording pen of history and philosophy to settle. He would, he said, however, submit some considerations and remarks on the subject, as they occurred to his mind.

The principles of the Constitution, he said, as also the merits and expediency of the Treaty, had been so eminently, so minutely considered and discussed on that floor, as well as by the most intelligent and enlightened men throughout the Union, that, in fact, nothing seemed to remain unexplored.

Mr. G. said he would, in a summary way, endeavor to touch upon some points, which, he thought, would not be considered inapplicable to the question, and notice some sentiments which had fallen from gentlemen opposed to him on the subject.

As to rectitude of intention, or purity of disposition, he would leave them to their proper tribunal. If, from any further view of the subject, or well-founded observations, any gentleman of the committee should, he said, doubt the soundness of those feelings which might hitherto have influenced them, he hoped, he said, they would pause; that they would examine well before they decided upon the important proposition before them. Mr. G. said, from what he had seen, from what he had heard and observed in the course of the debate, he entertained little or no expectation of any change of a determination which, to him, seemed to be the result of long-settled conclusions. It was proper, however, he thought, that the principles and considerations which had induced such determination should be rendered clearly manifest; that, in looking at our transactions, the world should not be at a loss for the prevailing reasons and motives of our conduct. That there exists in this House, said Mr. G., great bitterness, extreme indisposition towards the Treaty, is remarkably evident; that this spirit and indisposition have been transfused, and more or less imbibed among the people, he said, was also true. The cause of all this, he said, he would not then stop to inquire; but, would first take a view of

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the Treaty, to see if the great enemy to this country, if the great source of all evil were concealed and lurking there.

The great clamor against the Treaty had very generally been, he said, on account of its commercial arrangements. Even the extinguished parts of the 12th article, had, in that House, as well as abroad, been made as much the theme of reprobation, as if they still actually existed. He considered this, he said, an unfair and suspicious circumstance. It was obviously true, he observed, that the most experienced commercial men, in all parts of the United States, generally agreed, that however short of their wishes these commercial arrangements might be, still, they were, in fact, on the whole, really beneficial to this country. It is true, said he, the Commercial Representative here from Philadelphia seems to think otherwise, and to allow little or no regard to the opinions of other commercial characters, however enlightened or experienced—concluding, indeed, at once, as he says, (with little compliment to others) that they are all, all biassed, from considerations of private interest. Sir, said Mr. G., how little this Representative may be influenced from like considerations, I know not. At the same time, said he, I confess, that in respect to subjects of this sort, I consider such considerations, when general, much to be regarded; and, indeed, to furnish the very best lights on the subject. But whether, in this respect, said he, the Treaty be actually good, or actually bad, or neither, or whether it be matter of conjecture or uncertainty, when we consider that the experience of two years after the present war in Europe will most probably decide, and leave it entirely in our own power to put an end to it or not, as we then find from experience our interest to dictate, surely, he said, all reasonable men would unite in the propriety of waiving objections on that ground. So, that the great clamor so vehemently urged against the Treaty in this respect, as colonizing us again to Great Britain, may be evidently seen to be mere clamor and absurdity.

Before he could quit the commercial and temporary parts of the Treaty, Mr. G. said, he wished to take a little notice of the gentleman from Pennsylvania, [Mr. GALLATIN,] who had spoken yesterday, in regard to one or two points on this part of the subject. That gentleman, with all his regard for the honor and interest of this country, had said, it was so indispensably important that free ships should make free goods, that the negotiator ought never, never to have abandoned that demand. Mr. G. said, he would not undertake to say how unquestionable, or how really important such a stipulation would have been to us, or not. Enough had been said, however, by others, at least, to lessen our opinion of its consequence, and to show the impropriety of having insisted upon it, in the present moment, as a *sine qua non*. Yet, that enlightened gentleman, although he admits that Great Britain could not, and would not have consented to it in the negotiation, tells us, that the negotiator ought never to have given it up. We

should have settled no Treaty at all with that nation without such a stipulation. Sir, said Mr. G., can such reasoning be dictated by that regard for the honor and interest of our country, which that gentleman speaks of? What! should we have abandoned all ideas or endeavors for retribution and justice from that nation, and of accommodations of old broils and controversy with her, because she would not consent to yield to us a claim—a privilege which we have no right to demand? Because she would not consent, at that time, to change a principle of the Law of Nations—a Law of Nations which we had most explicitly avowed and recognised? Because, in the height of a tremendous war she would not consent to surrender to us a great and important weapon of her defence, to which she was indisputably entitled? Surely that gentleman cannot be serious, when he says the negotiator ought never to have given this up. Sir, said he, let it be observed, that this stipulation has never been yielded to us by any nation in time of war. And, let it be also observed, that Great Britain, who could not, and would not, during the war, relinquish this weapon of defence, has actually stipulated to treat and negotiate with us in respect to this very object, after the war in which she is now engaged is over. And here, I beg leave, said he, to remark, once for all, in regard to the negotiator, that, notwithstanding all the base and vile calumnies which had been insinuated, and insidiously propagated to criminate and stigmatize that worthy, that long-tried American patriot, it was, in his judgment, and would be unequivocally allowed by all but the malevolent, in respect to this claim of making free ships free goods, as well as in respect to the various other parts of this Treaty, conspicuously evident, that patriotism, skill, forecast, discerning and correct judgment, had marked his conduct, by limiting the operation in point of time to everything as short, as proper, which was not in its nature permanent, and clearly certain in its eligibility for this country; and, in so managing the most difficult negotiation as to maintain, honorably maintain and insure the neutrality, peace, and interest of his country, and for which, he said, he did not, for his own part, hesitate to say, he felt grateful to the genius of his country, and could not, to gratify any feelings of the malevolent, withhold this declaration of his own sentiments.

As to the ten preceding articles of the Treaty, Mr. G. said, as they related to permanent objects, therefore they had been considered, as was proper, and made equally permanent.

It was well known to every citizen of America, who had at all reflected on the subject, Mr. G. said, that the inexecution of the Treaty of Peace made in 1783, had occasioned the most ardent disputes and bickerings between the two nations; had for many years already embittered the two Governments with each other; that crimination and recrimination had served only to exasperate their respective dispositions: that, at length, amidst the general conflagrations, wars, and depredations of the Europeans, together with some ap-

pearances of partiality manifested, in some instances, at least, by the people of this country (how justifiable he would not pretend to say) towards some of the belligerent Powers, the British spoiliations at sea on our commerce commenced, and excited in every American bosom an irresistible animosity and indignation against the British nation. In this situation, sir, negotiation or hostility, he said, seemed the only alternatives. This House, indeed, he said, not then possessing or claiming any Treaty-making power, did propose certain other means to avenge ourselves indirectly of Great Britain, and impel her from acts of injustice and violence against us. These means then proposed by this House were, restrictions on her trade, sequestration of all British debts and property in this country, and finally, a suspension of all trade and intercourse with her. One of those measures—that of suspending all intercourse—was adopted, and sanctioned by a majority of this House at that time; but the other branch of the Legislature not concurring with us in sentiment in respect to that measure, advised, adopted, and pursued immediate and direct negotiation. Such was our situation at that time, and such, he said, was the process now fresh in the feelings and recollection of every gentleman on that floor. These proceedings have often been alluded to in the course of the debate, he said, and he would soon make some remarks also upon them; but he would first observe, that the Treaty under consideration had been the result, which everybody knew, of that negotiation. The permanent articles, except as to the claim of compensation for the negroes carried off by the British army, he said, embraced and provided for the great points in controversy between the two nations, and, he believed, on fair and equitable grounds.

The objection so much urged—the want of compensation for the negroes, Mr. G. said, had been already so fully considered, so soundly discussed by one of his friends from Connecticut, and so much to his satisfaction, that he would not undertake to re-examine this question. He would observe, however, in answer to the gentleman lately up from Pennsylvania, the other day, on this point, that if the arguments of his friends, deserved any sort of weight, in respect to this objection, there could be no possible ground to support that gentleman, in saying it was originally intended, and so understood, that this claim was to be considered as the equivalent and set-off for the payment of the debts due to British creditors. Indeed, Mr. G. said, if those arguments of his friends could be considered as well founded, there would remain no ground at all to support this claim. At any rate, it was abundantly apparent to his mind, he said, that so questionable a claim was properly relinquished, it being no fit foundation for a just, serious, national prosecution. A new, and, he believed, before unthought of prop to this fallen claim had, he said, been yesterday applied by the gentleman from Pennsylvania. He had not, indeed, read any laws on that point, but referred to *Vattel*, and other writers on public law, who, he said, considered slaves as real estate; not

as personal property, liable to booty by the rights of war and conquest. Mr. G. said, he had not time to examine the doctrine or the principles of the law *ex post liminium*, which he conceived did by no means apply, even as allowed and practised by the ancient law of nations. Mr. G. said, if the question could at all depend on the fact, whether those negroes were real estate, and not personal property, it could not be contended by any law or rule of property in the United States, that negro slaves were any other than personal property, which always went to the executor, and never to the heir, as such. He hoped, therefore, that gentlemen would not rely upon any opposite principle, which in this country did not exist. This objection to the Treaty, he said, he hoped would no longer be considered as insuperable.

The Treaty of 1783, as is well known, most pointedly stipulated on the part of the British, a surrender of all the posts and garrisons within the territory ceded to us by that Treaty; on the other hand, we as pointedly stipulated on our part payment of all British debts, &c.; it is a guarantee against all legal impediments to their recovery. We all know, every body knows, that these two important stipulations of that Treaty, remaining unfulfilled to this day, have been the principal source of contention between the two nations since that moment. And does not the present Treaty provide for an adjustment and termination of this contention by as perfect and entire a compliance as circumstances can admit, with the spirit and effect of the former stipulations? It really seemed so to him. He was aware of what certain gentlemen had said to the contrary, and would, in as few words as possible, consider their objection in this regard.

It is stipulated by this Treaty, on the part of the United States, that in all cases where full compensation for losses and damages cannot be had by the British creditors, by reason of legal impediments, the United States will make compensation. Nobody will pretend that this engagement is unjust, or unreasonable, or contrary to the spirit of the stipulation of the former Treaty; it is no other than the original contract between the debtor and the creditor, and to be regarded as intended by such contracts independent of the acts or quarrels of the respective nations.

Sir, said he, no sound nor in fact, ostensible, objection could be, or had been, urged against the principle of this stipulation. Certain gentlemen had, indeed, made a most frightful, and, as he thought, exaggerated statement of the probable amount of debt, ultimately payable by the United States in pursuance of this stipulation; but the unequal bargain, the want of reciprocity in regard to these principal stipulations, has been urged. It is said, that to have made the bargain equal, the British, on the same principle, ought to have allowed us damages for the detention of the posts. Mr. G. said, that as an American, he should have readily accepted of such an allowance, though he doubted very much as to the precise similarity of principle in the two cases, and

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believed the British nation felt no obligation, either from moral rectitude or physical necessity, of making any such allowance. On the whole, he was persuaded that, in this particular, we had the best of the bargain, and in fact acquired vastly more, as he would endeavor to make apparent, than we could lose.

The gentleman from Virginia (with whom the gentleman yesterday from Pennsylvania altogether agreed) had said, that although the posts were by stipulation, now to be actually surrendered, yet they were so loaded with conditions and shackles, as to be of no value to us; but the fallacy and weakness of this opinion, had already been well exposed by some of his colleagues, as well as other gentlemen; and he would also examine the objection a little further. What are these conditions, these degrading shackles, which so impair the value of these posts? It would be very difficult, by the description they have given, to discover them, but he would look for them.

The British settlers, by this stipulation, were to be protected, and to enjoy unmolested their property, and to have the option of becoming American citizens, or not. This agreement, on our part, Mr. G. said, had been used by those gentlemen as an impairing circumstance to the value of the posts, and as a dishonorable degrading condition. It had seemed to him, that those gentlemen entertained very extraordinary sentiments of honor and degradation, if they would deem this a debasing restriction, or consider a thing so sound in point of policy, as well as justice, an infringement of right. This was the same policy and justice which these people and their predecessors had, under similar circumstances, upon like occasions (as had been already observed) always heretofore enjoyed, nor could it possibly be considered as either reducing the value of the posts or degrading to the United States to allow it.

The gentleman from Pennsylvania had said yesterday, that it ought to have been left to us altogether to have permitted those people to remain there and enjoy their property, or not; that they might now still retain their influence with the natives, and excite disturbances and hostility. He would observe to that gentleman, that those people would be altogether in our own power and jurisdiction; and if they excited disturbances, insurrection, or hostility, might be apprehended, brought to trial, and if convicted, would be pardoned or punished; which that gentleman must know, and a little recollection might set him right.

Those opposite gentlemen had also urged another circumstance, which appeared to him more absurd and extraordinary still. It had been said, that the free communication, and commercial intercourse allowed by the stipulation to all the natives and inhabitants of the two adjoining and respective Territories; and by which, that immense interior world was laid open to the trade of the United States, was, in effect, impairing to us, and destroying the value of the posts: the absurdity of which, however, had been well exposed, and being so repugnant to common sense

and common experience, hardly required serious consideration.

Mr. G. said, he begged leave, however, to observe, that perhaps not less than nine-tenths of all the valuable fur trade lay within British Northwestern Territory; and, by this stipulation of free trade, mutual, unrestricted intercourse, was laid open upon an infallible principle of peace and harmony to this country. On this point of view, therefore, not only as it respected the advantages of that trade, but especially as it regarded peace, harmony, and friendly communications with the natives and inhabitants of that country, Mr. G. said, he considered this stipulation of all others, the most precious and interesting to the United States. Indeed, sir, had the posts been surrendered only, without this free reciprocal intercourse granted, he should have considered the United States in respect to the fur trade, and commercial advantages of that interior country, in respect to the quietude and security of our frontiers, in respect to peace and harmony with the Indians, and in regard to all our future prospects from such peace and security, in little or no better condition than before. All which now seemed to him to be settled and secured, upon the only proper basis of securing the blessings of peace, commerce, and prosperity, to the respective and adjoining Territories, the basis of mutual intercourse, mutual interest, and similar favor. Sir, those gentlemen who now seemed to value the acquisition of the posts and the Indian trade so very little, would do well, he thought, to recollect how very widely they differ in sentiments in this particular, from the common feeling and opinion of all America, manifested ever since the peace. From the state of things, which we had long experienced for the want of those posts and amicable intercourse with the natives, calculating the losses only, without counting the fur trade and commerce of that immense country at anything, we might pretty moderately estimate their value at more than three millions of dollars per annum. The Indian war, alone, resulting from such a state of things, besides all its inseparable calamities, we may rate at one million and a half; the prodigious territory lately purchased of the Indians of more than ten millions of acres, and just determined to be exposed to sale at not less than two dollars per acre, amounted to above twenty millions of dollars. Were we only to lay out of the interest of the money, we might rate it at nearly one million and a half more. This calculation of the consequence of those posts, and harmony with the natives, would thus be to us at least three millions annually; but we may properly calculate the loss and depreciation of all our other Western lands, from one extreme point of the frontiers to the other, which would be the inevitable effect of an Indian war: of this none would doubt. When we consider that our late pacification with the Indians was retained in consequence of this Treaty with Great Britain, we ought not to hesitate in concluding, that a rejection of this Treaty would reduce us back again to the former state of things, as well in respect to the savages, as their neigh-

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bors and protectors, the British. From this transient view of the mere amount of positive losses, without regard to the innumerable, inseparable calamities of an Indian war, and without regard to any prospect of commercial advantages, we could very moderately estimate the value of the posts and peace with the savages at nothing less than three millions annually. Will gentlemen seriously contend that this is of little consequence to us, not equal to the payment of British debts, which no honest debtor would wish to withhold? Surely they will not. It might not be amiss for those gentlemen to recollect the Spanish Treaty, so highly estimated, and to consider of what little consequence to us it may be, in case of the rejection of this Treaty with Great Britain; their irritation and retention of the Western posts, the general excitement again of the Indians, and a universal savage war upon our frontiers, infesting our Northern, Eastern, Western, and Southwestern Territories. That, in such case, the Western Lakes, those interior oceans, must still remain useless, and the inviting waters of the Mississippi and Ohio roll to waft our commerce in vain. Mr. G. said, he would not consider how much our Treaty with Algiers, and our prospects from that quarter, might also be affected in consequence of a rupture, or contention again with Great Britain; but, at the same time, he thought that consideration was not to be entirely disregarded.

There was one objection, which had been greatly dwelt upon, and considered as an alarming circumstance, particularly to North Carolina. It was that part stipulating that American citizens and British subjects, who now hold lands in the Territories of the United States, or in the dominion of Great Britain, shall still continue to hold them, according to the nature and tenure of their respective estates and titles therein.

Certain gentlemen say, that they really do not know, but fancy it may throw one-half of the lands of that State back again into the hands of British subjects, the former proprietors. As this objection has already been considered, and will be more particularly examined by gentlemen prepared on the same point, who will probably speak after me on this subject, I will not detain the Committee long in respect to it. He would ask, however, if gentlemen of legal information could possibly entertain any serious alarm of that sort? He thought not. The words used in this article in this respect, were words of precise meaning. They were technical terms, and perhaps, of all others, least liable to perversion. He would ask those alarming gentlemen whether those British subjects to which they allude, actually do, or do not, now hold those lands? If not, surely, they would not be alarmed. He considered the article only to extend to such lands as were now *bona fide*, by good and lawful title, actually held by the present owners according to existing laws. It is, indeed, a little remarkable, that these alarming gentlemen, who do not pretend to know whether their apprehensions be well founded or not, yet however erroneous it may be, however repugnant to common legal understanding, or technical sense,

they rely upon the objection with as much confidence and inflexibility, as if there could exist no doubt of such construction or intent. He said he was persuaded there was no ground for such opinion, and that it was urged from incorrect knowledge of the subject, or from a design to alarm. With these remarks on some of the principal points of the Treaty, he said he would quit any further observations relative to its merits. But, sir, its expediency, especially since it has been made, ratified, and exchanged, is quite another consideration. A consideration of infinite importance to the internal peace, happiness, and prosperity of America, as well as to her external character, her faith, her honor, respectability, and glory; but as so much already had been said on that head, he would pass it over, and close his observation with some remarks touching, in his opinion, the real grounds of the very inflexible opposition now made to the Treaty.

He had already noticed, he said, the peculiar indisposition of this House towards the Treaty. It was also observable, that much of the same bitterness and indisposition had been transfused, and in some parts of the Union particularly, more or less imbibed by the people—whose zeal without any reflection intended on their sovereign respectability, may be considered as not always according to knowledge or true wisdom. But why should that House with all its information and intelligence, continue their extreme indisposition, and manifest such bitterness on the subject? Sir, had I been, from my own observations, and recollection of recent transactions within my own knowledge, entirely at a loss to account for a thing so extraordinary, I should have been clearly satisfied of the cause, from the highest evidence, resulting from what had been detailed on this floor. This was a moment in which he considered it a duty incumbent on every one to speak his sentiments and act with decision. He should freely declare his opinion. Sir, have we not repeatedly been told in the course of this debate, that the measures heretofore proposed by this House, to which he had before alluded, were means which ought to have been pursued? Have we not been told that they were calculated to have procured a quiet redress of all our complaints, to have satisfied all our claims? And have we not been told that those measures had been improperly arrested from this House by the PRESIDENT and Senate? And have we not heard the same means again recommended as suitable for the Government of this country to adopt? Sir, have we not been told on this floor of the pusillanimity of the late measures of negotiation; and have we not heard it said that this Treaty had been conducted with pusillanimity, and was now to be carried into effect through fear? And, sir, have we not heard it insinuated that it was the effect of party spirit, combined with British influence and intrigue, to oppress and debilitate France? After all this, can there be any hesitation in the mind of any candid observer, to account for the inflexible opposition? He said he thought not, and thus no critical, impartial ob-

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server of these things, would hesitate to ascribe the remarkable indisposition of this House to the Treaty, less to the merits of the Treaty itself, than to that pride of opinion, disappointment of favorite measures, and feelings of indignation in this House, from being overruled by the other branches of the Government, who differed with them in opinion upon that occasion, and who advised, adopted, and steadily pursued direct and immediate negotiation. He had no hesitation to declare that he verily believed this was the real source of the bitter and inflexible opposition now made to the Treaty; and he hoped that the genuine sober citizens of America, as well as the surrounding world, would never be mistaken for the real cause of the conduct of the House on this occasion. For his own part, he was ready to be tried by God and his country, who, he hoped and believed, would not be deceived. Gentlemen who are averse to the Treaty, and advise its avoidance, treat with contempt and indignation all apprehensions suggested by others of national broils, contention, and war with Great Britain, or of commotions among ourselves. Admitting that there really was no ground for such apprehensions in the opinions of those who thus treat those suggestions, certainly we who entertain such apprehensions would be criminal and faithless to our country, indeed, should we not express them without reserve. He hoped that gentlemen, however brave and hardy, for themselves, would permit sober reflection to suggest and weigh all these things.

Sir, said he, if we resist and nullify this Treaty, let me ask seriously what means, and in what way we are to pursue redress for all the injuries, outrages, insults, and depredations, received from the British nation? he said they were too intolerable for any nation on earth and he thought not to be submitted to by Americans; but he said he could conceive of no other possible ways for redress, and satisfaction, than negotiation, or hostility. The effect of the former, we now have before us; and shall we refuse this, and risk the result of the latter? God forbid! He hoped our understandings were not so bewildered; our virtue, our reason, and our feelings of moral rectitude not so impaired. He should with confidence, therefore, expect the resolution before them would obtain.

When Mr. GILBERT had concluded—

Mr. TRACY said, he would, for the present, waive any observations on the impropriety of the minute discussion, which had been given by the House of Representatives to the Treaty, and take notice of some objections which had been stated against the ninth article, which follows, viz:

"It is agreed that British subjects who now hold lands in the Territories of the United States, and Americans who now hold lands in the dominions of His Majesty, shall continue to hold them according to the nature and tenure of their respective estates and titles therein; and may grant, sell, or devise the same to whom they please, in like manner as if they were natives; and that neither they nor their heirs or assigns, shall, so far as may respect the said lands and the legal remedies incident thereto, be regarded as aliens."

He said, it had been urged, that the ancient proprietary claims in this country, were by this article, revived and confirmed, especially in all cases where a special confiscation had not been completed antecedent to the Treaty of Peace in 1783; and that the State of North Carolina would suffer incalculable injuries by the claim of the Grenville family.

He would attempt to show, that the State of North Carolina, by the act of Independence, on the 4th day of July, 1776, succeeded to the title of all proprietary claims to lands, then existing, in the same manner as they did to the title of those vacant lands, commonly known by the name of the Crown lands. He believed this would silence every objection; but he thought he could further show, that the State of North Carolina had actually confiscated the lands which were once claimed by the Earl of Grenville, as lord proprietor.

He trusted, that if he were able to evince these two points, it would be easy to show, that this ninth article of the Treaty would be harmless to the State of North Carolina, as he would be able, he thought, to prove most explicitly, that the article gives no new title, nor strengthens any existing title, but barely confirms a right to those who now hold lands, to grant, sell, or devise, and to them, their heirs, and assigns, the legal remedies incident thereto, which might otherwise have become objects of dispute and controversy.

Mr. T. supposed there would be no difference of opinion in the Committee upon the following position, viz: that the proprietors in this country held their lands under the Government of Great Britain, with many of the prerogatives of royalty. This would appear as well from the grants themselves, as from the practice under those grants: all escheats in a particular manner went to the lord proprietor, and not to the King. This idea was certainly adopted in North Carolina, as they have a statute specially recognizing the principle, and regulating the practice which may be found in the 16th page of their statutes, as revised by Judge Iredell, in 1791. In this view of the subject, a lord proprietor might be considered as possessing a sovereignty as lord of the soil, so far as his proprietary interest extended.

Upon a revolution and formation of another Government, the newly-established sovereignty must certainly, from the nature of the transaction, succeed to the right of soil of all such lands as had not been granted to individuals, whether they had before been vested in the Crown or proprietors.

The proceedings of the State of North Carolina, would justify his idea on this subject. In the Bill of Rights adopted by that State on the 17th December, 1776, which was afterwards incorporated into, and made part of their Constitution, it was expressly declared, that the property of soil in a free Government was one of the essential rights of the collective body of the people; (after stating several lines and boundaries) it was declared that all the Territories, &c., lying between those lines, were the right and property of

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the people of the State, to be held by them in sovereignty: Provided (among other things) that nothing contained in said Bill of Rights should affect the titles or possessions of individuals holding or claiming under the laws, before that time in force, or grants made before that time, by the late King George the 3d, or his predecessors, or the late Lords proprietors, or any of them, page 276 of the book above quoted.

In November, 1797, the Legislature of North Carolina passed an act, opening a land office for entries of claims to all vacant lands not before granted by the Crown of Great Britain, or the lords proprietors of Carolina, or any of them, in fee, before the 4th day of July, 1776, (page 292) and in the same statute (page 296) reference was had to such persons who had received grants from Earl Grenville, whose right had lapsed for want of suing out a patent, and giving them a preference to others. In respect to making entries of the same lands, and in page 303, there was an explanatory act passed, more particularly regulating entries on lands formerly the property of the proprietor, Earl Grenville.

He supposed the conclusion irresistible, that the Legislature of North Carolina considered the State as succeeding, by the act of Independence, to all the title of unlocated lands, whether before that time claimed by the Crown or Earl Grenville, and he contended that the idea was correct, and to his knowledge had never been disputed in cases where the lord proprietor was not a resident. It was true, in Pennsylvania a compromise was made with the resident Penn family: but the Baltimore and Fairfax families, who were proprietors in Maryland and Virginia, were non-residents. The State of Maryland had confiscated the lands of the Baltimore family, and they had obtained satisfaction from the British Treasury. This, he believed, but would not assert was the fact relative to the Fairfax family. He said he had likewise seen a statement of a claim of Lord Grenville's heirs, and thought they had received compensation from the Parliament of Great Britain of £60,000 sterling; but of this he was not positive, yet believed he could find the fact substantiated by authentic documents. All these facts, he urged, combined in proving his idea, that the State of North Carolina, as a sovereignty, succeeded to all the titles the Earl of Grenville had to lands within the State, on the 4th day of July, 1776, and that it was, and ever had been, so considered by all parties, and by this and the British Government.

He thought this conclusive as to a complete extinguishment of the Earl of Grenville's title or that of his heirs; but facts would justify him in going further, and declaring the rights of the Earl of Grenville and his heirs to have been confiscated, and in that way vested in the State of North Carolina.

No person would doubt the right of the State to confiscate. If they had the *right*, there was nothing necessary but an exertion of that *right*. This, he urged, might be done in a great variety of modes; if the State chose to exert that *right*

by opening a Land Office and selling all the lands, making a declaration by their Legislature or Constitution that they were forfeited or vacant, and that they were vested in the State, as they had done in this case; he could not say such an act fell short of all the operative powers of confiscation exercised in any other mode; but if a more formal mode of confiscation was contended for, he thought the act of confiscation, passed in 1777, page 341, of the book above quoted, would place this matter in a still clearer point of view. By this act, "all lands, tenements, &c., within the State of North Carolina, and all and every right, title, and interest therein, of which *any person* was seized or possessed, or to which *any person* had title, on the 4th day of July, 1776, who on the said day was absent from the State of North Carolina, and every part of the United States, and who still was," &c., &c., "Shall and are hereby declared to be confiscated to the use of the State, unless there should be an appearance at a future day, to do certain acts," which will not be pretended were done by any person claiming under the proprietary right.

And in page 364, there was another act, which was passed after the time mentioned in the former act had elapsed, for persons coming into the State and doing certain acts to save their rights (viz: in 1779,) in which it was expressly declared, all the lands, &c., of any such persons who had not come into the State as aforesaid were forfeited to and for the use of the State.

Mr. T. urged that the words made use of in these several confiscating acts, were sufficiently extensive to reach all possible claims, either of the Crown or of the lord proprietor, and to evince that the State of North Carolina so understood it, he quoted another statute, page 522, in which are these words:

"All the lands, tenements, &c., within this State, heretofore confiscated, and not yet sold, except such lands which have not been granted by the Crown of Great Britain or the lords proprietors of North Carolina, or any of them, in fee, before the 4th day of July, 1776, &c., shall be sold by Commissioners in manner hereafter directed."

Why should they say, "all lands heretofore confiscated and not sold, except such lands," &c., describing the very land claimed under the proprietary right? It could not be made plainer, he thought, that they considered all the lands within their limits, not owned by individuals on the 4th of July, 1776, as having vested in the State, without any other confiscating act than that of establishing an office for sales; and that afterwards they considered their particular confiscation acts as extending to such lands, but adopted a different mode of sale from that of lands which had on the 4th July, 1776, belonged to individuals.

Nothing, to his mind, was more clear than that these ideas were correct, and that all the claims of the family of the Earl of Grenville were completely vested in the State of North Carolina.

But if any doubt could yet remain, he begged leave to quote another authority from the same book, pages 12th and 13th. This was an act bar-

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ring all right to enter or make claim to any lands, tenements, &c., but within seven years next after such right should accrue, with a proviso, giving (among other things) "eight years to persons beyond seas to enter and claim, after their *title or claim becomes due*."

Mr. T. said, he should have entertained no doubt of the conclusiveness of this statute but for some intimations given him by a gentleman from North Carolina, [Mr. TATUM,] that a construction had been put upon this statute of this kind, viz: eight years after the person returned from beyond seas, were meant to be given him to make his claims. This construction, Mr. T. observed, might be just; but it was singular that one year more should be given to a person who had been beyond seas than to the citizens at home; and he observed, further, upon looking into the index of the statute book, the words are, "Persons beyond seas may enter or sue within eight years after the title accrues." He thought that the obvious construction of the words in the statute, "*title or claim becomes due*," but upon looking into the index, which was made by that accurate gentleman, Judge Iredell, who perfectly knew the construction which had been given to that statute, as it had been in existence ever since the year 1715, excepting a suspension of eight years during the war with Great Britain, he could not bring his mind to doubt but that his construction of the statute was correct; and, if so, all title to those lands which may ever have been vested in the Earl of Grenville's family must now be destroyed by the limitation; as there is no pretence the owner of this land was, at the close of the war, a *minor, feme covert, non compos mentis, or imprisoned*, which are the only exceptions in the statute, excepting being beyond the seas, which last exception he had spoken of above.

Mr. T. said, an objection had been started by a gentleman from Pennsylvania, [Mr. GALLATIN,] that if this property had been confiscated, yet as there had been no decisions of Court which he [Mr. GALLATIN] called *finding an office*, the confiscation was not complete, and of course was arrested by the Treaty of Peace.

It was, in the first place, not necessary that any legal process of a Court or Jury should be had for the purpose of vesting the title to those lands in the State of North Carolina. In England, when a title escheats to the King, he cannot enter or seize upon any man's possession without office found, or in other words, without the intervention and finding of a Jury; but in case of attainder for high treason, the forfeiture is instantly incurred, and the King is vested without any inquisition of office; and in all cases where an act of Parliament confiscates, unless in the same act, as in the statute 18th Hen. 6th, chap. 6th, it is declared no title shall vest in the King until office found. It would be found the title vested immediately in the King.

Mr. T. said, he had not attended to the legal course of proceedings in England with a particular view to this subject, but from general recollection, he thought that in England, in all cases

where the common law contemplates a forfeiture of lands, &c., to the King, such as when an alien purchases, or when the King's tenant dies without heirs, and such like cases, the King could not seize on such lands without the finding of a jury; but in all cases where the finding of a jury had ascertained a crime by which a forfeiture accrues to the King, he thought that the finding of the jury was considered as an inquest of office. But, let the law of England be what it might, it was a fact that no such ceremony as an inquest of office was necessary in the matter now in question. The Legislature of North Carolina had, by solemn act, declared themselves, or the State, to be in actual possession, and to be the proprietor of this land; they have actually taken possession, made entry and sale, and put the purchasers into possession. In cases of direct and unequivocal confiscation, they have done no more; and no more, he contended, could be necessary for making a forfeiture on the part of the former owner, and an investiture in the State complete and perfect. A similar act of Parliament would have been complete as to vesting a title in the King, and it never had, in this country or in England, been thought necessary to add to such proceedings an inquest of office. The gentleman [Mr. GALLATIN] had further said that the lands formerly held by the Earl of Grenville in North Carolina were excluded by the act of confiscation itself from its operations; and he read a clause in the confiscation act to confirm that idea.

Mr. T. said he could not discern any such meaning in the law alluded to; the words were: "All entries already made, or which shall be made, of any lands, &c., of the persons aforesaid, (and this alluded to persons specially named in the act,) which come within the meaning of the confiscation act, passed at Newbern in November, 1777, or of this act, shall be void and of none effect." The act then proceeded to except, with a special proviso, the law for making entries on the Earl of Grenville's lands; and further declares all the proceedings which had been or should after that time be had under that act, to all intents and purposes valid. The gentleman [Mr. GALLATIN] had said he was not a lawyer, and, of course, delicacy would forbid criticisms upon this part of his argument. He would only observe, that he thought he had proved himself no lawyer. But Mr. T. supposed it not important, even if it was certain that the lands of the Earl of Grenville were excluded from the confiscation act, as the other act respecting entries would amount, in its operation, to a complete forfeiture and investment of title; forfeiture on the part of the owners, the heirs of the Earl of Grenville, and an investment in the State of North Carolina.

He thought he had shown, 1st. That the Grenville's title was of a feudal nature, partaking of such insignia of royalty as that the title of the owner, he not being a resident, would, of course, on the formation of the new Government in 1776, vest in the sovereignty. 2d. That the sovereignty of North Carolina possessing the right of confiscation, had exerted that right most explicitly. It

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remained now, on this head, to compare this state of things with the 9th article of the Treaty, and to form a just idea of the result.

The words are, "*British subjects who now hold lands*," &c. "Hold," he said, was a technical phrase well understood in England and America to mean a title complete in itself. The meaning of it in this article of the Treaty was well understood to be, "those persons who have a title to lands, this existing title shall continue as it now is." If his reasoning upon the claim of the Grenville family had any foundation in truth, they had not, at the time of making the Treaty, the least shadow of title; they could none of them be said to "hold" "lands in the territories of the United States." Therefore, he thought his friends belonging to North Carolina might rest easy on the subject.

One thing had been said by Mr. GALLATIN which Mr. T. said he could not comprehend, and that was, if the Treaty had not provided legal remedies for aliens, that any subject of Great Britain, although he might hold lands, could not sue and recover them, because he might be defeated by a plea of *alienage*; he could not conceive of such a situation; if they "*hold*" lands, they have all the remedies incidental to their holding; if they do not "hold," no remedy was in their power, but it was because no right existed. The 9th article certainly gave no new right, as it respected title; it might add to the life estate a right to devise to aliens, which was the utmost that could be said of any right being given by this article. But the Grenville family having no right of any kind, this article would have no influence on those lands once claimed by them.

Mr. T. said, in discussing a subject which necessarily drew into it an explanation of statutes, the operation of which, as explained by legal adjudication, with which he was unacquainted, might have led him to erroneous conclusions, but he hoped the candor of his friends from North Carolina would induce them, in case of error on his part, to set him right. Mr. T. said he would now make a few observations on some other parts of the Treaty.

Mr. T. said he would take a cursory view only of some other articles of the Treaty, and certain observations which had been made against them. It had been said, the surrender of the posts was saddled with conditions, which destroyed the benefits of the surrender; and much had been said against leaving it optional with the British subjects, now living within the neighborhood of the posts, to become citizens of the United States or not.

He asked gentlemen if it would have been politic to have forced those persons to become American citizens, or to have removed to the British dominions on the other side of the line? And whether, in this latter case, we should not have enlisted every man of them on the side of our enemies, and laid a foundation for the excitement of further discontent and war with the Indians? A gentleman from Pennsylvania [Mr. GALLATIN] had said, if we could have left those persons in the pre-

cise situation that the Treaty has, yet why *force* us by Treaty to do it?

If that gentleman's position was just, that we were now making the Treaty, and that not so much as the *national faith* was pledged, until we give our sanction, why was the word *force* made use of? We were now free to act or not, and he was confident no better way could be devised to treat those persons living in the vicinity of the posts than that adopted by the Treaty.

Free intercourse by land, and inland navigation, the most desirable circumstance which could have occurred, was said to be a fault in this Treaty. He observed, that the Treaty of Utrecht, which, among many other things, established between France and England a line nearly in the same place, contained a provision nearly in the same words; and he begged gentlemen to inform him how they meant to maintain a friendly intercourse among people who probably would inhabit on each side of a line thousands of miles in length, unless it is free?

It had been said we should be saddled with a sum of very great amount in British debts, even 15,000,000 of dollars. A gentleman from Massachusetts [Mr. GOODWIN] had placed this matter on the best probable footing, by stating how much annual credit it was usual to obtain from Great Britain, and then assuming one year or one half year to be the aggregate; this, at most, would not exceed 6,000,000 of dollars for the whole debt, and allowing interest on the whole, would not make more than 9,000,000 of dollars. This sum was certainly paid in part, but a part of the remainder could possibly be embraced by the provisions of the Treaty. How great a sum, in fairness, we ought to calculate upon, he left gentlemen to decide. If 15,000,000 of dollars was the sum, he thought the aggregate debt to British creditors must have been at least 50,000,000 of dollars, if not 100,000,000. He asked the gentlemen from the South—for the greater part of the debts were there—if this amount, or any where near it, had ever been acknowledged by them, or by Mr. Jefferson, in his statement to the British Minister; and whether this enormous amount was not, in some measure swelled, upon the present occasion, to meet the Treaty, as being the most formidable weapon of condemnation; and whether, on the same ground, a decision of Court, on common law principles, had not been called a *legal impediment*? But he really thought the *sum* was not an object, if that sum was to be fairly ascertained; for if honest creditors have been defeated by the Government from a recovery of debts, why ought not that Government to indemnify such creditors?

A gentleman from Virginia [Mr. NICHOLAS] had said the Commissioners would probably be such men, as that we might expect from their decisions, or at least fear, partiality to creditors. He asked that gentleman, if there could be a better plan of adjustment, and if the persons who would probably be appointed Commissioners, would not have character, reputation, and every thing dear to man, at stake, to induce an upright decision?

He thought any man must have been very un-

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fortunate indeed, in his intercourse among his fellow men, to be capable of forming an estimate so degrading to the human character. Let the gentleman ask his own heart how he should behave on such an occasion, and let him suppose, as charity would certainly dictate, that other men possessed honesty as well as himself.

A gentleman from Pennsylvania [Mr. GALLATIN] had said yesterday, that the boasted benefits of the East India trade, secured to us by the Treaty, were of little or no consequence; and if we understood as much about it, as we did of the West India trade, that part of the Treaty would be found as injurious to us as the 12th article; and that all our merchants were of that opinion. He thought this statement incorrect, in point of fact. So far as he was acquainted with the opinions of the best-informed merchants, they were all in favor of the East India regulations, and the gentleman from Massachusetts [Mr. GOODRICH] whose opinion, as a well-informed merchant, had always much weight with all who knew him, had some days since in public debate, made a similar declaration.

That free bottoms should make free goods, had been reiterated, and this Treaty called a very bad one, for not containing such a regulation, in such solemn language, that he begged the indulgence of the Committee, while he took notice of that objection.

The sea, he observed, was the great highway of the world, and liberty of navigating it was the right of all nations, and without molestation to carry their own property to such places as they pleased, not thereby infringing the rights of another.

But when two nations are contending and at war, what right, in the nature of things, could exist in a third nation to interfere, and assist either of them? They had a right, if they chose to join one party in the war; but on the principle of neutrality, could a right to assist one of them be said to exist? And if the nations at war have a right to take the property of their enemies, is it not reasonable that they should exercise that right whenever they find such property, not within the dominions or territory of a neutral nation? He thought the idea of making prize of enemy's property wherever it was found, and permitting a friend's property to go free wherever it was found, had its foundation in the nature of things, and was with as much propriety called one of the Laws of Nations, as the prohibition to a neutral nation, to carry military stores to a blockaded town. He believed, if the principle of free bottoms making free goods was once established as the Law of Nations, we should find as much evil existing from overgrown maritime Powers intruding to excite war among the nations, which could afford them the carrying trade, as from any other source. But allowing it to be ever so desirable, we ought to consider, that for the purposes of making a contract, two parties were absolutely necessary; and that both would possess rights, and have a voice in the bargains. Mr. T. observed, he had intended to notice what had been said of the article respecting contraband goods, but he had al-

ready consumed so much time that he would omit it. He requested the patience of the Committee, while he took a short but general view of the Treaty.

The Treaty with Great Britain, he said, however partiality might dictate, was in his opinion a good Treaty, much better for the United States than we had any reason to expect. He declared he thought it ought to be adopted by the United States, if they had been strong in armies and fleets, as a much better settlement of our misunderstandings and disagreement with Great Britain, than war could have been, had our strength been in almost any degree great and respectable. He was not one of those whose discernment was so acute, as to discover destruction and death in this Treaty. By this Treaty we gained the Western posts, which gave us a tolerable security for peace with the Indians, and a certainty of the commerce of the Western World. New York must become to that country what Venice and Genoa were formerly to Europe. We secured to ourselves the East India trade, compensation for the obstruction made on our commerce, a settlement of disagreeable and painful controversies; peace, and what added infinitely to the blessing even of peace itself, a confidence in our own Government.

We lost nothing by this Treaty, unless it could be called a loss to indemnify honest creditors against the operation of laws, which had been dictated by a spirit, not deserving of very flattering titles. This was, he said, a general view, and considering only the leading features of the instrument; but an accusation of a very extraordinary nature had been made up against the Treaty, that no compensation was obtained by it for the negroes carried away by the British army, after the peace of 1783. On this subject, he would make but two remarks; one was respecting a gentleman from Virginia, [Mr. MADISON.] It would be remembered by many who heard him, that two years ago, when Clarke's intercourse bill, (as it was called) was under consideration, and when among other things prescribed in it for the British nation to do, to prevent us from starving them by a prohibition of intercourse, a restoration of negroes was moved, Mr. MADISON opposed it, and made use of this remarkable expression: "It was not proper to commit the peace of this country for an object of no greater consequence than a restoration of those negroes, or compensation for them." He asked that gentleman, if it was now an object for which the peace of this country ought to be committed? The second observation he should make, was in answer to the gentleman from Pennsylvania, [Mr. GALLATIN] who had said negroes were never to be considered as "booty" of war; this was said in answer and by way of refutation, to the construction given to the words of the 7th article of the Treaty of Peace, which were "and His Britannic Majesty shall, with all convenient speed, and without causing any destruction, or carrying away any negroes or other property of the American inhabitants, withdraw all his armies," &c.

Mr. T. said, the construction put upon these

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words had been so ably managed by several gentlemen before him, that nothing new could be said upon the construction; but Mr. GALLATIN's attempt to obviate those arguments, deserved notice. That gentleman had said, negroes were not booty, and quoted *Vattel* in support of his assertion, hence the gentleman would have it, that at the end of a war the negroes must be returned as a matter of course, not vesting, by the capture, any right or property in the captor.

Mr. T. supposed the words "other property" would explain what was meant by negroes in the Treaty of Peace, but waiving that, he said, *Vattel* had no where said, that negroes, or slaves were not by the Law of Nations, "booty" of war. In page 584, *Vattel* in speaking of the manner in which the Romans treated slaves taken in war under the head of the rights of *postliminium*, had said they were sometimes on a settlement returned to the former owner: but *Vattel* has given no authority for the assertion made by that gentleman; even if a slave taken in battle should not be considered as "booty," yet those who had repaired to the British standard antecedent to the peace, in consequence of a proclamation promising them freedom, could by no possible construction of any part of *Vattel*, be said to be comprehended by that article of the Treaty of Peace, if negroes were property; with other property, the captors had a vested right, if men, no law human or Divine could or ought to coerce a return to their former slavery, and no such construction could, with a shadow of propriety, be given to the words of the Treaty.

The same gentleman [Mr. GALLATIN] had said, the admission of free bottoms making free goods, was in many Treaties of other nations with Great Britain, and in all Treaties made by that nation since 1780, excepting a late Convention with Russia.

Mr. T. said, he believed there was not a Treaty existing, to which Great Britain was a party in which that principle was recognised.

In the Treaty with the Netherlands, made by Great Britain many years ago, for a reason well known, it was admitted, that Treaty was temporary and had long since expired. It was in the Treaty made with France in 1786, that had ceased by the war; it was in a former Treaty with Russia, which was at an end in the last and existing Treaty; between Great Britain and Russia, it was not admitted. The French Treaty was the only one, within his memory, which Great Britain had made since 1780, in which such a principle was admitted. He could not but view such attempts to hold up an idea, that the Treaty now under consideration, was singular, in this respect, as not containing the principle of free bottoms making free goods, and that the omission was owing to an intentional neglect on the part of the negotiator, as unfair, in the extreme; and it must have been noticed, through the whole of that gentleman's [Mr. GALLATIN] observations yesterday, that he frequently took care to intimate, that the negotiator could have obtained better terms from Great Britain, if he had been so disposed.

Mr. T. said, he was impressed with the importance of the subject now before the Committee, and could not suppress his astonishment at the conduct of the gentlemen in the opposition. They had begun with calling for papers from the President and with declaring they had as much, and similar authority to that vested in the Parliament of Great Britain, to sanction or refuse their assent to Treaties of a commercial nature; the next vote was a declaration that the power of making Treaties was vested in the President with advice and consent of the Senate, but that the House of Representatives had a kind of negating power by withholding appropriations.

Now, the declaration was, the Treaty was entirely open, not even the national faith was pledged to carry it into execution, and one gentleman of Virginia [Mr. MOORE] and who was generally remarkable for his candor, had said he must vote against the appropriating resolution now before the Committee, to show that the power of refusal was in the House of Representatives. To meet the gentlemen in opposition on their own ground, and allow them the authority of a British Parliament, he said the British Parliament had never in a solitary instance refused to pass laws necessary to carry a Treaty into execution, which had been negotiated by their King. The instance of the Commercial Treaty with France, made in 1713, commonly called the Treaty of Utrecht, it was conditional, and he again asserted no positive unconditional Treaty made by the King of Great Britain had ever been otherwise considered by the British Parliament than a compact which had solemnly pledged the national faith, and which they were bound to carry into effect. That with France above mentioned, although conditional, was refused support, on account of a claim made by the merchants, and a violent party at that time prevalent in the nation.

It was well known the merchants were more intimately concerned in the operations of a Commercial Treaty than any other class of men; of this the party availed themselves, and in that way effected a negotiation of the necessary laws to carry that Treaty into effect. The merchants in this country are almost to a man in favor of this Treaty, and yet a gentleman from Pennsylvania [Mr. SWANWICK] had told us we ought not to mind them, because they were interested, and told us of national honor being preferable to interest.

Mr. T. said, the progress of opinions and conduct in that House was a remarkable instance of the assumption of power so natural to the human heart.

At first the cry had been, the Treaty was unconstitutional, that ground was now given up, and it is now treated as a mere proposal for compromising differences, and had undergone more verbal criticisms, and the discussion managed with more subterfuges and quibbles, than any gentleman would have either disposition or face to exercise in a bargain for the purchase of a horse. And we are told this House is the great inquest of the nation, and if not the Treaty-making power, yet emphatically the Treaty-destroying power. He

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would acknowledge there was a happiness in the epithet destroying which the gentleman had assumed. And now an attempt was made in the House to destroy a national compact, for the sole purpose of showing their power; and from the valuable motive of doing their utmost, as the immediate Representatives of the people, to preserve liberty and the rights of man.

He then asked for a little more indulgence, while he took a short view of the state of things which, in his opinion, must necessarily follow a refusal to appropriate.

Among the melancholy group of distressing attitudes, into which this country must be thrown, by such refusal, a breach of national faith would present itself in prominent features; and the man or men who could trifle with national faith, were not friends to liberty or the happiness of the country.

The peace of the country was at least in imminent hazard; peace might be considered as a state of things contrasted to war, and it further might be considered as a state of things contrasted to confusion and want of confidence, in the internal police of a Government, or its operations with regard to foreign nations; a refusal to appropriate would operate like a stroke of the torpedo on our commerce; evil-minded persons in Bermuda and elsewhere would sweep the seas of our vessels, under the expectation of actual war. Industry will be discouraged, and instead of finding security and protection from Government, when men find it a mere bill of expenses, and exercising itself in dissertations on liberty, and talking loudly of honor, but professedly deeming the interest, and whatever tends to advance the interest of the industrious and enterprising, they would be led to curse the Government.

But, he acknowledged he had very little expectation of e-scaping a war with Great Britain, in case of a refusal to appropriate money to carry into effect this Treaty.

In contemplating this subject, gentlemen had asked with an air of triumph, will Great Britain go to war with us?

The gentleman from Pennsylvania had said we would not go to war with them; and if neither party will go to war, how can there be a war? He would thank gentlemen to give the probable state of things. It had been acknowledged by the last-named gentleman, [Mr. GALLATIN,] that a new negotiation, at present, cannot be expected. Great Britain possesses the posts—the confidence of the Indians—the many millions of dollars despoiled from our commerce—the benefits of our trade—and proceed to make more invasions on our property and our rights, and yet the gentleman says we will not go to war! What should be the American conduct under such a state of things? Would they tamely see their Government strutt—attempt to look big—call hard names,—and the moment they were faced, like an overgrown, lubberly boy, shrink into a corner? Is this, he asked, the American character?

He thought himself acquainted with a part of the United States too well to believe they merited

such a character. The people where he was most acquainted, whatever might be the character in other parts of the Union, were not of the stamp to cry hosannah to-day, and crucify to-morrow; they will not dance around a whiskey-pole to-day, and curse their Government, and, upon hearing of a military force, sneak into a swamp. No, said Mr. T., my immediate constituents, whom I very well know, understand their rights, and will defend them; and if they find the Government either cannot or will not protect them, they will attempt at least to protect themselves. And he could not feel thankful to that gentleman [Mr. GALLATIN] for coming all the way from Geneva to give Americans a character of pusillanimity.

[Here a member from Pennsylvania [Mr. HEISTER] called Mr. TRACY to order, and said it was intolerable. Mr. HEATH of Virginia, and Mr. CHRISTIE of Maryland, called to order. Mr. TRACY requested the Chairman of the Committee of the Whole [Mr. MULLENBERG] to decide. The Chairman declared Mr. TRACY to be in order, and directed him to proceed.]

Mr. T. said, in the heat of debate he might have been too personal; this he did not mean. If he had, he asked pardon of the gentleman and the House. But he would ask leave to explain. He said he would call upon the recollection of all who heard him, that that gentleman [Mr. GALLATIN] said yesterday the negotiation with Great Britain was begun in fear, carried on through fear, and the treaty made by the same motive; when it arrived in this country, the Senate sanctioned it, and the PRESIDENT placed his signature to it, from fear, and now there was an attempt to obtain the sanction of the House of Representatives from fear. All these expressions, in an unqualified manner, the gentleman had applied to this country, in its most important transactions, by its most important characters; and, to crown all, we are to defeat the Treaty, and sit down quietly under injuries the most irritating, and not attempt a redress, or do anything like going to war. Under impressions made by such declarations he had said what he had; and he now said, he wished to look in the face of that gentleman, [Mr. GALLATIN], or Mr. HEISTER, or any other who dared say that the American character was that of cowardice. He would say, again and again, it was madness, or worse, to suppose we could defeat this Treaty and avoid a war.

Mr. T. said another attempt was made to defeat this Treaty, by declaring that the British nation had impressed our seamen since the Treaty was made, and that this was either an infraction of it, or a proof that no security was obtained under it. He left gentlemen to decide on the possibility of breaking this Treaty, when even the national faith was not yet pledged till sanctioned by the House of Representatives, and took this opportunity to ask for the proofs of such transactions as impressing our seamen by the British Government. He declared he knew of none, and had never heard of one instance of the British Government either avowing the right, or practising upon it, of impressment of an American into their sea-service.

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Many instances had occurred of complaints to the Government, and all were immediately redressed. And, although it was becoming very fashionable to calumniate the British Government, he was impelled from his own belief and conviction on the subject, to say that no such instance had ever taken place, or would ever, of the British Government justifying the impressment of natives of the United States, or one who was an acknowledged citizen. Is it not unfair, said Mr. T., to attribute to the Government the unauthorized misconduct of individuals far removed from the seat and control of the Government? It was equally unreasonable to say that we were not protected by the Treaty, and should not be, when the British Government had promised to pay for all former depredations made in that way upon our commerce. Was it not reasonable to suppose they would prevent or pay for any such depredations now made? And they certainly would prevent all such which were not from the confusion of war rendered inevitable.

An objection had been raised against the Treaty, that we should in consequence of it suffer British influence on our politics and Government. If I thought that to be a fact, said Mr. T., I should be unhappy in the extreme; for I wish to avoid the interference of any foreign politics. But, he said, he could not see any such danger. If we would be just to ourselves, we might defy any and all operation of the politics of foreigners.

Mr. T. said he had but touched upon a few of the many important points which presented themselves in considering this momentous question, any one of which would afford abundant matter for such a number of observations as would occupy a length of time equal to that which the patience of the Committee would allow to any one man. He concluded, by saying, he thought the happiness of the United States, and the stability, if not the existence of the Government, depended on passing the resolution; and he could not for a moment indulge a belief that it would be negatived.

When Mr. TRACY had concluded a call for the question was again made; but, upon the motion being put for the Committee's rising, there appeared 51 for it, which was more than a majority of members present. The Committee accordingly rose, without coming to a decision.

THURSDAY, April 28.

Mr. GOODHUE, Chairman of the Committee of Commerce and Manufactures, reported a bill for discontinuing the drawbacks on the exportation of snuff from the United States; which was twice read, and, after a few observations, was ordered to be committed to a Committee of the Whole.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Gentlemen of the Senate, and

of the House of Representatives.

Herewith I lay before you a letter from the Attorney General of the United States, relative to compensation

to the Attorneys of the United States in the several Districts, which is recommended to your consideration.

G. WASHINGTON.

UNITED STATES, April 28, 1796.

The said Message and Letter were read, and ordered to be referred to Mr. KITTERA, Mr. BRENT, and Mr. BRADBURY, to report their opinion thereupon to the House.

A bill was received from the Senate, authorizing Ebenezer Zane to locate certain lands Northwest of the river Ohio; which was twice read and referred.

Mr. S. SMITH proposed a resolution to the following effect, which was referred to the Committee of Commerce and Manufactures to report thereon

"Resolved, that the President of the United States be authorized to direct such quarantine to be performed on all vessels from foreign countries, arriving at the ports of the United States, as he shall judge necessary."

EXECUTION OF BRITISH TREATY.

Numerous petitions were presented to-day, praying that provision may be made for carrying the British Treaty into effect. They were referred as usual.

Mr. S. SMITH also informed the House that he had received instructions from 97 of his constituents to exert himself in getting the British Treaty carried into effect. He said the instructions which he read to the House before, from his constituents in Baltimore county, were signed by 197 persons, and not by —, as had been stated.

Mr. LIVINGSTON presented a representation and memorial, signed by 37 persons, in behalf of a public meeting which had been held at New York, in the fields, praying that the House of Representatives would act as they thought best with respect to the British Treaty, without being influenced by the efforts of any party. It was referred to the usual Committee.

The House then resolved itself into a Committee of the Whole on the state of the Union; when, the resolution for carrying the British Treaty into effect being under consideration—

Mr. PÆSTON rose and spoke as follows: Mr. Chairman, I voted for the question yesterday, for the first time since this discussion began. I was then prepared to give my opinion, but, since the House has thought proper to devote another day to this important subject, I will take the liberty to offer my sentiments, and claim the indulgence of the Committee for this purpose. I make this claim for their indulgence with the more confidence, as I have heretofore occupied but little of the time of the House on any occasion, and as I mean to be short on the present—not intending to take that comprehensive view of the subject which many gentlemen have done who have preceded me. With this apology I will proceed, conceiving, however, that no apology is necessary on this or any other occasion where our duty impels us to come forward. But, I must confess it has been painful to me to hear the recriminations that have taken place on this occasion. I had hoped, on a subject so important, on which it is said the peace and happiness of this our common country rests—whose

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welfare must be equally dear to all—that temperance and calmness would have marked our deliberations; that all our efforts would have been made to enlighten the minds and convince the judgments of each other, instead of lessening one another in our estimation, and that of our constituents, by dishonorable imputations, and which, I trust, every member would spurn. As to myself, Mr. Chairman, I stand here regardless of any imputations that ill-nature may cast upon me in this House, or abuse which may be conferred without doors. I shall not be deterred from pronouncing that opinion which my best reflections have enabled me to form.

Sir, in considering this subject, I had hoped every information possessed by any of the departments of Government would have been freely afforded us; and I cannot but lament that the *PRESIDENT*, by a too strict adherence to what he has supposed to be his Constitutional duty, refused the request of this House for certain papers, which request seemed to me not only proper, but innocent—proper, because they might have afforded information that would reconcile many of the objections entertained of the Treaty, and finally produce its adoption; it was innocent, because, if there was no unfair procedure respecting this business, why not publish the transaction to the world—at all events to the Representatives of the people, who, it is acknowledged by all, were not only to act on the Treaty in some way, but were intrusted with the management of some of the dearest rights of their fellow-countrymen? If, then, the people confide in us such important concerns, might not the Executive have reposed some degree of confidence, and complied with a request so decorously and respectfully made? But he has told us his duty forbids it. We are then reduced to the necessity to judge of the thing from the face of it, without the wished-for information. And I must confess it has always presented such a hideous and deformed aspect to my mind, that I have ever disliked it—which, together with the unfriendly sentiments of my constituents to it, has produced my prejudices. But I had determined, as the *PRESIDENT* and Senate had ratified it, and many approved it, to keep my mind open for every information the subject was capable of. As, then, none has been offered to operate a change of my opinion, and as the most likely source is shut against us, my prejudices, instead of being lessened, have become firmly fixed in the opposition.

I have thought proper to make these few preliminary observations. I will now offer some considerations on the Treaty, and will avoid, as much as possible, retracing the ground that has already been trodden by those who have gone before me.

By the first article, we find a firm and inviolable peace, a true and sincere friendship, is to exist between the respective countries, and the people thereof, without exception. How sincere the friendship between the countries is, I will not undertake to say; but the friendship of Great Britain to our property and our people, of certain descriptions, is unbounded indeed, inasmuch as

they are daily receiving the one and embracing the other, even by force; but so familiar is this kind of friendship, that I believe our people would willingly dispense therewith; it proves, too, the old adage, that too much familiarity breeds contempt.

But, sir, the next article seems to be the great boon for all the concessions that are made by this compact. There is no one but will admit that the surrender of the posts would be an important acquisition at this time; but how infinitely more so would it have been in the year 1783, when they ought to have been delivered? We should not only have received the benefits of the fur trade, which gentlemen prize so high, from that time to the present, with all its accumulations, but we should have had peace with the Indians, and thereby saved the millions which have been expended in war, and the lives of many thousand valuable citizens. Moreover, our lands would have been purchased and settled to their limits, and our Public Debt thereby much extinguished, and we should have been less embarrassed. But what has been the course pursued in this business? We have been obliged, by vast expense, to coerce a peace with the Indians, and when ready to grasp the posts, we are told they are not ours, and the interference of another Treaty has thrown them two years further from our reach. I had understood, Mr. Chairman, that the Envoy was charged to demand, not to cede them, and surely this is a cession; for if he had a right to give them up for two years, why not for twenty-two, or any other given period? the principle certainly goes to this. So that, by this stipulation, we find, instead of receiving retribution for the detention of the posts, further delays are allowed, and no claim made. Hence we stand precisely in the same situation we did in the year 1783—no other assurance for their deliverance than we then had—British faith, of which, I had thought, gentlemen had had enough, by not having any. I will ask whether we have any stronger assurances now that Great Britain will perform, in 1796, what she ought to have performed in 1783? For my part, I know of none, unless it is that she has now a better bargain than she then had; but, indeed, this ought not to be an incitement, when, by refusing to comply with one, she is solicited to enter into another, more to her advantage. And this policy, too, is supported by a gentleman who informs us he represents the half of the State of New York, [Mr. COOPER,] he advises accepting what we have got, and negotiate for more. God forbid we should have any more negotiations of this kind! for, if we have, I fear we shall negotiate ourselves into Colonial subjects again.

But we are told the British committed no infraction of the Treaty of 1783, by withholding the posts; for we, having thrown legal impediments in the way of the recovery of their debts, became the first infractors thereof, whereby they were left free to comply or not. Let us, for a moment, inquire into this fact. By the 4th article of that Treaty, creditors on either side were to meet with no legal impediment to the recovery of their debts. By the 7th article of the same Treaty,

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His Majesty was, with all convenient speed, to withdraw his armies and garrisons from every post and place. Now, sir, on comparing these articles, can it be presumed by any one that the latter stipulation was to remain unexecuted until the creditors recovered their debts? Was it to remain as a pledge for the performance of the other? No one can entertain the idea for a moment. Suppose the creditors had gone on in the collection of their debts without interruption, would it be said that the stipulations of the 7th article would be suspended until all the creditors were wholly satisfied? It is absurd, particularly when we reflect that the Commissioners who negotiated that Treaty must have contemplated the recovery of those debts by lawsuits; therefore, if the latter clause was intended to coerce the former, we would certainly not had the insertion of the words "with all convenient speed," which implies an early compliance. If the opposite construction was just, I would venture to say, the British Government would never have agreed to surrender the posts, but in consequence of such concessions as it now gets; for it would have the advantages of the fur trade, and the faith of this country pledged for the payment of the debts, which were accumulating by interest. This was a pleasing situation; but what was the situation of the British debtors? Deprived of their negroes, which were to be returned by the Treaty; deprived of the advantages of the trade with the Indians, whereby they might be enabling themselves to discharge those debts; harassed and worn down with taxation, to support the Indian wars excited by their creditors. In this situation of things, was it not natural for them to look around for security or indemnity against these evils; and would anything more naturally present itself, than withholding the payment of the money to the very cause of these evils? None, sir; and I cannot conceive it so dishonorable as some gentlemen pretend to view it.

But, sir, I will endeavor to show that the laws which were enacted by States for prohibiting the recovery of the British debts, was not an infraction of the Treaty of 1783. By the little book, which the gentleman from Connecticut [Mr. HILLHOUSE] says is so precious, and which he hopes will be preserved for some time to come, we find that Mr. JEFFERSON has, in consequence of complaints from the British Minister, respecting the impediments to the recovery of British debts, inquired into the facts, in those States where the complaints originated; the result of these inquiries was, that though there were State laws prohibiting, yet a number of gentlemen, of the first abilities and great integrity—generally professional characters, and who have been engaged in proceedings of this kind—certify, that wherever attempts were made to recover these debts, they have met with no more obstruction than other creditors. Besides, those gentlemen were generally of opinion that, on the final ratification of the Treaty of 1783, it repealed all laws at variance with it. If, then, it had such a powerful attribute as to repeal former laws, it follows, as a consequence, that subsequent

laws opposing it were mere nullities. These opinions were cited the other day by a gentleman from Massachusetts, [Mr. SEDGWICK,] and relied on. I hope they will have their due weight on the application now to be made of them. So that, on the whole, it does appear to me the British creditor had nothing more to struggle with than other creditors had, except the well-founded prejudices imbibed by our countrymen against that nation, which, though the laws might in some measure correct, they could never eradicate. That these prejudices have produced irregularities in many instances and delay of collections, I have no doubt; but from the nature of things it is well known no fore-sight or precaution could guard against it. Indeed, they might have been expected, for can it be supposed that men would stand calmly and see their families reduced to penury and want by an unrelenting British creditor, who had aided to impair the very means of his debtor to pay, and whose Government was by their acts daily increasing the evils, by exciting the Indians to war against us, whereby our citizens were borne down with burdens to defend themselves? I say, would not such reflections, with ruin before our eyes, produce a degree of irritation in the most calm amongst us? I owe none of these debts, I never did, and I never will, if I can help it. I spurn the idea of involving my country in a debt of an incalculable amount, when millions of them never received any benefit thereby. It is wrong, it is unjust. I again repeat, that it does appear to me, on an impartial view of this subject, that the United States are not chargeable with the first infraction of the Treaty of 1783, and that therefore, we are not bound now to enter into a compact which appears to me to be warranted neither by the principles of reciprocity nor justice.

But I undertake to say, and with some confidence too, that Great Britain committed the first infraction of that Treaty, by withholding the posts, and also carrying away the negroes, which she had expressly stipulated to give up; and, to my astonishment, it is now contended that the taking away the negroes was not a violation of the Treaty, as they came into their possession by the rights of war, and being deemed property were vested in the captors. Admit, for a moment, they were that kind of property, and they became as much the property of their captors as any they had possessed themselves of in the same way, what then? Certainly, that it followed of course, they had a right to dispose of them in any way they chose, either to emancipate them, retain them in slavery for their own use, or return them to their original owners. Which of these alternatives have they elected to do? [Here he read the following sentence from the Treaty of 1783.] "And His Britannic Majesty shall, with all convenient speed, and without causing any destruction or carrying away any negroes or other property of the American inhabitants, withdraw all his armies," &c., &c. Now, sir, was not the carrying away the negroes a violation of this article? All America once thought so. No other construction ever entered the head of man till this Treaty appeared;

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owners so construed it, and in virtue thereof made demands. Congress, and even "*Camillus*," once thought so, and so they declared it in the most solemn manner. And so it would be construed by all descriptions of people, from the school boy to the Senator, to use the expression of the gentleman from New York, [Mr. COOPER,] had our minds remained in the same state they were in a dozen years ago. Sir, if there be modern constructions of the Constitution, I will venture to say there is the same of Treaties. But another clause of the same article justifies my construction, to wit: the leaving in all fortifications the American artillery that may be therein. Gentlemen will hardly say this means fortifications garrisoned by American soldiery; this would be absurd, for it is pretty well known that American artillery guarded itself better than British Treaties did. Was not this artillery, which had fallen into the hands of the enemy, a vested property, till the chances of war or the Treaty had made a disposal thereof? Unquestionably it was. Were not the archives, records, deeds, &c., which had also fallen into the hands of the enemy, their property? There can be no doubt of it. Yet we find these things stipulated to be given up.

If, then, they chose to yield one species of property, might they not another? But, it is said, the negroes were not our property at the time of signing the Treaty; so neither did the archives, records, &c., belong to the States—they were the property of the enemy; but certainly the British Minister had as much right to stipulate for the return of the one as for the other, and he has in as explicit terms. This must have been the understanding of the Commissioners who negotiated that Treaty, although one of them has been traced to his slumbers, the evening before the sealing the Treaty, for a different construction. So that, in this instance, the British have certainly committed the first infraction, by carrying off the negroes. And is it not extraordinary that, notwithstanding this, no claim is made for them, and yet we are bound to pay the British debts, when the very means of doing it are taken from the debtor by the creditor? Sir, this is a serious oppression. and though not of a very great magnitude, will nevertheless be felt in an interesting manner, and if submitted to, will be so under much disquietude.

I will now make some observations on the 9th article, which to me was extremely objectionable, and immensely important, as it breaks in on a property the rights of which above all ought to remain unshaken or hazarded by construction. By this article, British subjects who now hold lands in the United States shall continue to hold them, according to the nature and tenure of their estates and titles therein.

What is the nature and tenure of their estates and titles therein? They claim and hold them either by proclamation from the King, granting certain tracts, or by special contracts with him for so much as described therein. This is the nature and tenure of the British claims generally, in this country. And I will venture to assert, if this article be agreed to, all those old claims will be

renewed, and this country thrown into a scene of litigation and confusion. Sir, it will never be submitted to, if this construction be right, and I can see no other meaning it can have. It is unknown what a face of country will be covered by these claims. I know a man, now in this city, who holds many millions of these claims by agreement with the King of Great Britain, prior to the Revolution; whether he means to renew the claim under this article, I cannot say; but if this article only admitted of a doubt—and it certainly does, notwithstanding the labors of the gentleman from Connecticut, yesterday, [Mr. TRACY]—we ought to be extremely cautious, and weigh it well before we accept it, situated as much of this country is.

But, however objectionable this article is, no less so is the succeeding one. It is, that the debts of individuals of one nation due to the individuals of the other, shall not be subject to sequestration or confiscation. By this we give up one among the strongest holds we have on Great Britain, for her peace and respect towards us; a thing, if retained, would be of more terror to her than all the fleets we shall have for many years to come. But, it is said, it is unjust that individual confidence should be impaired by national differences. Let gentlemen refer to history, and they will find that almost all wars have been originated in the conduct of individuals to each other, who, by acts of outrage and retaliation committed on one another, gather strength from time to time, till they become a national object, and cause a national war. The interference of individuals frequently restores peace again. I mention this to show, that where there is such a familiar intercourse between nations, as between this and Great Britain, there ought to be not only the obligation of fear, but that of interest. For, if it be an individual loss to the people of that nation to commit outrages on the people of this, it will be a more certain security against those outrages than the influence of personal fear. But I have heard it said, if this Treaty be violated by war, it becomes a nullity, and this article falls with the rest. I am of a different opinion, for the negotiators, in forming this, were guarding that property against the evils of war; they express this to be their object; they could have no other, for it is hardly presumable there would be confiscations in time of peace. Sir, the fact is, if we agree to this article, there is no event of war or national differences, whatever may be the outrages of the conflicting Powers, that will justify a breach of it. I would hold myself bound at all times, or in any event, to observe this article. This is my *bona fide*, although I voted against the insertion of these words on another occasion, and although so much has been said about prostrating the honor and faith of this nation. By these observations, gentlemen will see I am a friend to sequestration and confiscation; yet I declare, if I know myself, I am a friend to justice, although our negotiator has said such a conduct was unjust. I differ, too, sir, from my friends on this point, when they say this should be the last resort in case of war. With me, it should be among the first; for I have such a horrible aversion to the effusion of human blood,

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that I would strip my enemy of all his property before I would commit such an outrage on humanity; if that would not restore peace, then I would use the bayonet as my dernier resort. This closes my observations on the permanent articles of the Treaty; which to me are of such weight, however futile they may be to others, that I cannot, in my conscience, agree to be bound myself thereby, or suffer my country, so far as my negativity will prevent it.

The latter part of the Treaty being of a commercial nature, and temporary, I am not disposed to hazard many observations upon it, because I am ignorant of commercial affairs, my interest never leading me to an acquirement of a knowledge of it, and my industry not being adequate to the abstruseness of the subject. However, I will offer some general observations.

The 15th article prevents a discrimination of duties, as, also, a prohibition of exports and imports, unless general, with all nations. Every one who knew the course of my political opinions two years ago, must know I am opposed to this. I did think that these two propositions, under the existing state of things, as relative to the time they were proposed, would have answered the desired purpose.

The discriminating duties would either have produced countervailing ones, or an amicable and equal adjustment of differences; in either event, I should have been pleased—the first, tending to the encouragement of our manufactures, the other, to accommodation. I was also willing—nay—anxious, to try the effects of a prohibition of all intercourse with that nation. It would have determined one important fact, in my mind, namely, whether we could better do without their manufactures, or they without our commerce? and, though this experiment might have produced a temporary inconvenience, it would ultimately be an important advantage to the encouragement of our own manufactures. Besides, it is said, that country is jealous and sore under their separation from us. If this be a fact, and I believe it is, it affords us an additional reason to pursue that policy which will finally close our intercourse with that nation, instead of drawing closer the bands of friendship, which, I am sorry to say, has already too much influence. I am here reminded of a conversation that took place between myself and a gentleman high in office, and very high in the estimation of some. Whilst the resolution prohibiting a further intercourse with Great Britain was under consideration, I met with him, and it immediately became the subject of conversation. He exclaimed against it as war, worse than war; it was underhanded and unmanly, and, therefore, unworthy of Americans. If it was the intention of gentlemen to go to war with that country, and the complaints would justify it, he would join hand in hand in an open manner; but, when there existed such differences between nations, the proper course to be pursued was the appointment of an Envoy Extraordinary, who would go to the nation complained of with a perfect knowledge of the temper of his own country,

and, therefore, would be more impressive than the gentleman stationary at that Court. He added, too, that he might not possess all that enmity to that nation that some of the Southern people have, and, therefore, an accommodation would more readily, and with more facility, take place. This conversation happened several days before the appointment of an Envoy, indeed, before I heard the idea suggested. But so it was, one was appointed who fitted the character precisely. Though, unfortunately for this country, so soon as he crossed the ocean he abandoned the temper of his nation, as expressed by a respectable majority of the Congress that were then in session when he was appointed, and has fixed a veto thereon. This abandonment of the temper of his country, fully proves the other requisite of his character, to wit: that he did not possess all that enmity to the British Government that the Southern people did. Indeed, I doubt whether he had any, or such is his forgiving disposition and urbanity of manners, that he could not be so impolite as to urge the temper of his country, it was too rigid. What gentlemen's feelings may be who favored this system, I cannot say; I confess mine are not a little wounded; yet not so much as to endeavor to avenge myself on the subject, to the injury of my country, as has been insinuated.

The 25th article is highly objectionable, as it certainly is unfriendly to the French, inasmuch as it permits British privateers, on capturing French vessels, to enter our ports and remain for security. By this, we become the protectors and harborers of the enemies of our friends, and nothing will be more likely to produce a war with that favorite nation, than pursuing a conduct like this; for, can it be supposed, that the French will see their vessels captured by the British, just off our coasts, and immediately run into our ports, there to remain till convenient to depart, which certainly will not be as long as French vessels are waiting their departure? Is this, Mr. Chairman, consistent with strict neutrality? Is it consistent with the obligations we are under to that nation, or the gratitude we owe her for her magnanimous services rendered us during the late war? To me, it is a shameful dereliction of our friends; one that my obligations, my gratitude, and my friendship, spurns at, and will not suffer me to submit to. But, to my astonishment, it is asserted that we are under no obligations to France for the assistance she gave us. It was afforded, not for friendship to us or our cause, but from enmity to Great Britain. Sir, whatever might have been their motives, it is unbecoming us to say, for if we acknowledge the aid, we must admit the obligation. It is further said, [by Mr. HILL-HOUSE,] that she gave us no aid until we had captured Burgoyne, whereby we had proved to the world that we were able to cope with that nation. The inference from this is, that their aid was unnecessary, and their untimely interference tarnished the laurels that America was about to pluck by conquest over Great Britain. But how does General Washington's letter, respecting

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Count de Grasse, at the capture of Cornwallis, comport with this assertion? By that we are informed, as well as I recollect, (it is some time since I read it,) that the people of America had become tired of the war, ready to yield to their fatigues and distresses, whereby some effectual stroke became necessary. York presented an opportunity for the meditated scheme. Was Count de Grasse and his followers, the French, of no service there? Sir, could the thing have been completed without this assistance? It is acknowledged it could not. What were the assertions that were made when appropriations were solicited for the daughters of Count de Grasse, two years ago? That his services and magnanimity was one of the great causes of ending the American war; and shall the daughters of this hero perish on the American shores, which were so much indebted for their independence and liberty to the services of their father? Were motives then impeached? No, sir. Appropriations were made, and, I believe, that very gentleman voted for them. I did not, having previously determined not to appropriate money in that way, till our suffering brethren in Algiers were relieved from their cruel slavery. Sir, I say I am astonished at our ingratitude, that we should abandon our friends, and now, to their injury, take that nation by the hand who attempted to deprive us of our liberty. I am one who have different impressions. I believe American independence is much indebted to French valor; believing so, I shall, whenever these nations present themselves in similar views, give a decided preference to the latter. I will here conclude my observations with a few remarks on those already offered relative to the consequences that will result in the event of acceptance or rejection of the instrument on your table. It is said, if we accept it, we shall continue to enjoy all that prosperity that kind Providence has so liberally bestowed on us, since the establishment of this Government; that our farmers will reap the benefit of their industry, and our merchants will plough the ocean in security, bringing wealth to themselves and riches to their country. These are surely pleasing consequences, and I would, if they could be insured to me, seize with avidity the thing that would produce such inestimable blessings to our happy country. But, Mr. Chairman, where is the security for all this? Have we found, since the ratification of this Treaty, that our property and our seamen have been secured thereby? Are we not hearing daily of British rapacity gorging on American property, and British insolence outraging American rights, notwithstanding that nation must suppose the Treaty completely ratified and fully in force? For the PRESIDENT has informed us that he has told them so; and so they have believed, and that they did believe so is further evidenced by the last clause in the Treaty, viz:

"That this Treaty, when the same shall have been ratified by His Majesty and by the President of the United States, by and with the advice and consent of their Senate, and the respective ratifications mutually exchanged shall be binding and obligatory on His Ma-

jesty and on the said States, and shall be by them respectively executed, and observed with punctuality, and the most sincere regard to good faith."

Sir, is the seizing our vessels and impressing our seamen British faith? Is this executing and observing the Treaty with punctuality and the most sincere regard to good faith? If it is, it is most fortunate that we yet retain those powers which that nation has supposed were ceded by the Treaty.

But the rejection of the Treaty is tremendously alarming, indeed. War, and war's alarms, are echoed on all sides. We shall be attacked on one side by savage barbarity; up the Mediterranean by Algerine cruelty; our commerce prostrated, and our cities laid under contribution by the British. In short the dogs of war let loose on us, and America, once happy America, will become the scene of bloodshed and desolation. Great God! What man is there here that can be wicked enough to involve his country in such incalculable miseries? Who has firmness enough to meet so foul a deed? Particularly when we reflect on the dreadful act we are about to do that will produce such scenes of horror and devastation! namely, refuse to accept a bargain derogatory to our national honor! This, sir, is to produce the dreadful catastrophe. But the measure of woe is not yet filled. There will be disunion: and American citizens will become American enemies, imbruing their hands in each other's blood. Civil wars will rend our happy country. Heavens! What a shock to suffering humanity here will be! And all about some commercial regulations and political differences with a foreign nation, who, I believe, in principle, is our inveterate enemy.

Mr. Chairman, I am one who, though I have but little confidence in the British Government, yet I cannot believe that she, or any other nation on earth, is so arrogant, and lost to every principle of humanity, as to go into such dreadful excesses, because we will not enter into a contract that will suit her interest. I fear war as much as any man, when a pretext is given; but can it be seriously said a rejection of this Treaty is a cause of war? I cannot believe that such can possibly be the event.

As to disunion, it is idle to talk of it; for I do believe if, instead of a minority of this House, every man in it were to return home full of spleen and disappointment, and were to use every exertion, every artifice in their power, to bring about a disunion, they would fail in so traitorous an attempt. The people, sir, would scoff them, would turn them out of office, and place therein more deserving characters.

As then, Mr. Chairman, I cannot believe that war or disunion will be the result of a rejection of the Treaty, and as I think it is one from which we ought to withhold our assent, I must give it my negative. And if, in this, time shall prove me wrong, I shall lament the error, with the greatest sincerity, but I shall have the pleasing consolation to know it was an error of the head, and not of the heart.

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When Mr. PRESTON had taken his seat—

Mr. AMES rose, and addressed the Chair as follows:

Mr. Chairman: I entertain the hope, perhaps a rash one, that my strength will hold me out to speak a few minutes.

In my judgment, a right decision will depend more on the temper and manner with which we may prevail on ourselves to contemplate the subject, than upon the development of any profound political principles, or any remarkable skill in the application of them. If we should succeed to neutralize our inclinations, we should find less difficulty than we have to apprehend in surmounting all our objections.

The suggestion, a few days ago that the House manifested symptoms of heat and irritation, was made and retorted as if the charge ought to create surprise, and would convey reproach. Let us be more just to ourselves, and to the occasion. Let us not affect to deny the existence and the intrusion of some portion of prejudice and feeling into the debate, when, from the very structure of our nature, we ought to anticipate the circumstance as a probability, and when we are admonished by the evidence of our senses that it is a fact.

How can we make professions for ourselves, and offer exhortations to the House, that no influence should be felt but that of duty, and no guide respected but that of the understanding, while the peal to rally every passion of man is continually ringing in our ears.

Our understandings have been addressed, it is true, and with ability and effect; but, I demand, has any corner of the heart been left unexplored? it has been ransacked to find auxiliary arguments, and, when that attempt failed, to awaken the sensibilities that would require none. Every prejudice and feeling have been summoned to listen to some particular style of address; and yet we seem to believe, and to consider a doubt as an affront, that we are strangers to any influence but that of unbiassed reason.

It would be strange that a subject which has roused in turn all the passions of the country, should be discussed without the interference of any of our own. We are men, and, therefore, not exempt from those passions; as citizens and Representatives, we feel the interest that must excite them. The hazard of great interests cannot fail to agitate strong passions: we are not disinterested, it is impossible we should be dispassionate. The warmth of such feelings may becloud the judgment, and, for a time, pervert the understanding; but the public sensibility and our own, has sharpened the spirit of inquiry, and given an animation to the debate. The public attention has been quickened to mark the progress of the discussion, and its judgment, often hasty and erroneous on first impressions, has become solid and enlightened at last. Our result will, I hope, on that account, be the safer and more mature, as well as more accordant with that of the nation. The only constant agents in political affairs are the passions of men—shall we complain of our

nature? Shall we say that man ought to have been made otherwise? It is right already, because He, from whom we derive our nature, ordained it so; and because thus made, and thus acting, the cause of truth and the public good is the more surely promoted.

But an attempt has been made to produce an influence of a nature more stubborn and more unfriendly to truth. It is very unfairly pretended that the Constitutional right of this House is at stake, and to be asserted and preserved only by a vote in the negative. We hear it said that this is a struggle for liberty, a manly resistance against the design to nullify this assembly, and to make it a cypher in the Government. That the President and Senate, the numerous meetings in the cities, and the influence of the general alarm of the country, are the agents and instruments of a scheme of coercion and terror, to force the Treaty down our throats, though we loathe it, and in spite of the clearest convictions of duty and conscience.

It is necessary to pause here and inquire, whether suggestions of this kind be not unfair in their very texture and fabric, and pernicious in all their influences? They oppose an obstacle in the path of inquiry, not simply discouraging, but absolutely insurmountable. They will not yield to argument; for, as they were not reasoned up they cannot be reasoned down. They are higher than a Chinese wall in truth's way, and built of materials that are indestructible. While this remains, it is in vain to argue; it is in vain to say to this mountain, be thou cast into the sea. For, I ask of the men of knowledge of the world, whether they would not hold him for a blockhead that should hope to prevail in an argument whose scope and object it is to mortify the self-love of the expected proselyte? I ask, further, when such attempts have been made, have they not failed of success? The indignant heart repels a conviction that is believed to debase it.

The self-love of an individual is not warmer in its sense, or more constant in its action, than what is called in French, *l'esprit de corps*, or the self-love of an assembly; that jealous affection which a body of men is always found to bear towards its own prerogatives and power. I will not condemn this passion. Why should we urge an unmeaning censure, or yield to groundless fears that truth and duty will be abandoned, because men in a public assembly are still men, and feel that spirit of corps which is one of the laws of their nature? Still less should we despond or complain, if we reflect that this very spirit is a guardian instinct that watches over the life of this assembly. It cherishes the principle of self-preservation; and, without its existence, and its existence with all the strength we see it possess, the privileges of the Representatives of the people, and immediately the liberties of the people, would not be guarded, as they are, with a vigilance that never sleeps, and an unrelaxing constancy and courage.

If the consequences, most unfairly attributed to the vote in the affirmative, were not chimerical, and worse, for they are deceptive, I should think

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it a reproach to be found even moderate in my zeal to assert the Constitutional powers of this assembly; and, whenever they shall be in real danger, the present occasion affords proof that there will be no want of advocates and champions.

Indeed, so prompt are these feelings, and when once roused, so difficult to pacify, that, if we could prove the alarm was groundless, the prejudice against the appropriations may remain on the mind, and it may even pass for an act of prudence and duty to negative a measure which was lately believed by ourselves, and may hereafter be mis-conceived by others, to encroach upon the powers of the House. Principles that bear a remote affinity with usurpation on those powers will be rejected, not merely as errors, but as wrongs. Our sensibilities will shrink from a post where it is possible they may be wounded, and be inflamed by the slightest suspicion of an assault.

While these prepossessions remain, all argument is useless; it may be heard with the ceremony of attention, and lavish its own resources, and the patience it wears, to no manner of purpose. The ears may be open, but the mind will remain locked up, and every pass to the understanding guarded.

Unless, therefore, this jealous and repulsive fear for the rights of the House can be allayed, I will not ask a hearing.

I cannot press this topic too far—I cannot address myself with too much emphasis to the magnanimity and candor of those who sit here, to suspect their own feelings, and while they do, to examine the grounds of their alarm. I repeat it, we must conquer our persuasion, that this body has an interest in one side of the question more than the other, before we attempt to surmount our objections. On most subjects, and solemn ones too, perhaps in the most solemn of all, we form our creed more from inclination than evidence.

Let me expostulate with gentlemen to admit, if it be only by way of supposition and for a moment, that it is barely possible they have yielded too suddenly to their alarms for the powers of this House; that the addresses which have been made with such variety of forms, and with so great dexterity in some of them, to all that is prejudice and passion in the heart, are either the effects or the instruments of artifice and deception, and then let them see the subject once more in its singleness and simplicity.

It will be impossible, on taking a fair review of the subject, to justify the passionate appeals that have been made to us to struggle for our liberties and rights, and the solemn exhortation to reject the proposition, said to be concealed in that on your table, to surrender them forever. In spite of this mock solemnity, I demand, if the House will not concur in the measure to execute the Treaty, what other course shall we take? How many ways of proceeding lie open before us?

In the nature of things there are but three—we are either to make the Treaty—to observe it—or break it. It would be absurd to say we will do neither. If I may repeat a phrase, already so much

abused, we are under coercion to do one of them, and we have no power, by the exercise of our discretion, to prevent the consequences of a choice.

By refusing to act, we choose. The Treaty will be broken, and fall to the ground. Where is the fitness, then, of replying to those who urge upon this House the topics of duty and policy, that they attempt to force the Treaty down, and to compel this assembly to renounce its discretion, and to degrade itself to the rank of a blind and passive instrument in the hands of the Treaty-making power? In case we reject the appropriation, we do not secure any greater liberty of action, we gain no safer shelter than before, from the consequences of the decision. Indeed, they are not to be evaded. It is neither just nor manly to complain that the Treaty-making power has produced this coercion to act. It is not the art or the despotism of that power, it is the nature of things that compels. Shall we, dreading to become the blind instruments of power, yield ourselves the blinder dupes of mere sounds of imposture? Yet, that word, that empty word, coercion, has given scope to an eloquence that, one would imagine, could not be tired, and did not choose to be quieted.

Let us examine still more in detail the alternatives that are before us, and we shall scarcely fail to see, in still stronger lights, the futility of our apprehensions for the power and liberty of the House.

If, as some have suggested, the thing called a Treaty is incomplete, if it has no binding force or obligation, the first question is, Will this House complete the instrument, and by concurring, impart to it that force which it wants?

The doctrine has been avowed, that the Treaty, though formally ratified by the Executive power of both nations, though published as a law for our own, by the **PRESIDENT'S** Proclamation, is still a mere proposition submitted to this assembly, no way distinguishable in point of authority or obligation from a motion for leave to bring in a bill, or any other original act of ordinary legislation. This doctrine, so novel in our country, yet, so dear to many, precisely for the reason that, in the contention of power, victory is always dear, is obviously repugnant, to the very terms, as well as the fair interpretation of our own resolutions—[**MR. BLORST'S.**] We declare that the Treaty-making power is exclusively vested in the **PRESIDENT** and Senate, and not in this House. Need I say that we fly in the face of that resolution when we pretend that the acts of that power are not valid until we have concurred in them? It would be nonsense, or worse, to use the language of the most glaring contradiction, and to claim a share in a power which we, at the same time, disclaim as exclusively vested in other departments.

What can be more strange than to say, that the compacts of the **PRESIDENT** and Senate with foreign nations are Treaties, without our agency, and yet those compacts want all power and obligation until they are sanctioned by our concurrence? It is not my design, in this place, if at all, to go into the discussion of this part of the subject. I will

at least for the present take it for granted that this monstrous opinion stands in little need of remark, and, if it does, lies almost out of the reach of refutation.

But, say those who hide the absurdity under the cover of ambiguous phrases, have we no discretion? And, if we have, are we not to make use of it in judging of the expediency or inexpediency of the Treaty? Our resolution claims that privilege, and we cannot surrender it without equal inconsistency and breach of duty.

If there be any inconsistency in the case, it lies, not in making appropriations for the Treaty, but in the resolution itself—[Mr. BLOUNT'S.] Let us examine it more nearly. A Treaty is a bargain between nations binding in good faith; and what makes a bargain? The assent of the contracting parties. We allow that the Treaty power is not in this House; this House has no share in contracting, and is not a party; of consequence, the PRESIDENT and Senate alone may make a Treaty that is binding in good faith. We claim, however, say the gentlemen, a right to judge of the expediency of Treaties—that is the Constitutional province of our discretion. Be it so—what follows? Treaties, when adjudged by us to be inexpedient, fall to the ground, and the public faith is not hurt. This, incredible and extravagant as it may seem, is asserted. The amount of it, in plainer language, is this—the PRESIDENT and Senate are to make national bargains, and this House has nothing to do in making them. But bad bargains do not bind this House, and, of inevitable consequence, do not bind the nation. When a national bargain, called a Treaty, is made, its binding force does not depend upon the making, but upon our opinion that it is good. As our opinion on the matter can be known and declared only by ourselves, when sitting in our Legislative capacity, the Treaty, though ratified, and, as we choose to term it, made, is hung up in suspense, till our sense is ascertained. We condemn the bargain, and it falls, though, as we say, our faith does not. We approve a bargain as expedient, and it stands firm, and binds the nation. Yet, even in this latter case, its force is plainly not derived from the ratification by the Treaty-making power, but from our approbation. Who will trace these inferences, and pretend that we may have no share, according to the argument, in the Treaty-making power? These opinions, nevertheless, have been advocated with infinite zeal and perseverance. Is it possible that any man can be hardy enough to avow them, and their ridiculous consequences?

Let me hasten to suppose the Treaty is considered as already made, and then the alternative is fairly presented to the mind, whether we will observe the Treaty, or break it. This, in fact, is the naked question.

If we choose to observe it with good faith, our course is obvious. Whatever is stipulated to be done by the nation, must be complied with. Our agency, if it should be requisite, cannot be properly refused. And I do not see why it is not as obligatory a rule of conduct for the Legislature as for the Courts of Law.

I cannot lose this opportunity to remark, that the coercion, so much dreaded and declaimed against, appears at length to be no more than the authority of principles, the despotism of duty. Gentlemen complain that we are forced to act in this way, we are forced to swallow the Treaty. It is very true, unless we claim the liberty of abuse, the right to act as we ought not. There is but one way open for us, the laws of morality and good faith have fenced up every other. What sort of liberty is that which we presume to exercise against the authority of those laws? It is for tyrants to complain that principles are restraints, and that they have no liberty so long as their despotism has limits. These principles will be unfolded by examining the remaining question—

SHALL we break the TREATY?

The Treaty is bad, fatally bad, is the cry. It sacrifices the interest, the honor, the independence of the United States, and the faith of our engagements to France. If we listen to the clamor of party intemperance, the evils are of a number not to be counted, and of a nature not to be borne, even in idea. The language of passion and exaggeration may silence that of sober reason in other places, it has not done it here. The question here is, whether the Treaty be really so very fatal as to oblige the nation to break its faith? I admit that such a Treaty ought not to be executed. I admit that self-preservation is the first law of society, as well as of individuals. It would, perhaps, be deemed an abuse of terms to call that a Treaty which violates such a principle. I waive, also, for the present any inquiry what departments shall represent the nation, and annul the stipulations of a Treaty. I content myself with pursuing the inquiry, whether the nature of this compact be such as to justify our refusal to carry it into effect? A Treaty is the promise of a nation. Now, promises do not always bind him that makes them.

But I lay down two rules which ought to guide us in this case. The Treaty must appear to be bad, not merely in the petty details, but in its character, principle, and mass. And, in the next place, this ought to be ascertained by the decided and general concurrence of the enlightened public. I confess there seems to me something very like ridicule thrown over the debate by the discussion of the articles in detail.

The undecided point is, shall we break our faith? And while our country and enlightened Europe await the issue with more than curiosity, we are employed to gather piecemeal, and article by article, from the instrument, a justification for the deed, by trivial calculations of commercial profit and loss; this is little worthy of the subject, of this body, or of the nation. If the Treaty is bad, it will appear to be so in its mass. Evil, to a fatal extreme, if that be its tendency, requires no proof; it brings it. Extremes speak for themselves and make their own law. What, if the direct voyage of American ships to Jamaica, with horses or lumber, might nett one or two per cent. more than the present trade to Surinam, would the proof of

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the fact avail anything in so grave a question as the violation of the public engagements?

It is in vain to allege that our faith, plighted to France, is violated by this new Treaty. Our prior Treaties are expressly saved from the operation of the British Treaty. And what do those mean who say that our honor was forfeited by treating at all, and especially by such a Treaty? Justice, the laws and practice of nations, a just regard for peace as a duty to mankind, and known wish of our citizens, as well as that self-respect which required it of the nation to act with dignity and moderation—all these forbid an appeal to arms before we had tried the effect of negotiation. The honor of the United States was saved, not forfeited, by treating. The Treaty itself, by its stipulations for the posts, for indemnity, and for a due observance of our neutral rights, has justly raised the character of the nation. Never did the name of America appear in Europe with more lustre than upon the event of ratifying this instrument. The fact is of a nature to overcome all contradiction.

But the independence of the country—we are colonists again. This is the cry of the very men who tell us that France will resent our exercise of the rights of an independent nation to adjust our wrongs with an aggressor, without giving her the opportunity to say those wrongs shall subsist, and shall not be adjusted. This is an admirable specimen of the spirit of independence. The Treaty with Great Britain, it cannot be denied, is unfavorable to this strange sort of independence.

Few men, of any reputation for sense, among those who say the Treaty is bad, will put that reputation so much at hazard as to pretend that it is so extremely bad as to warrant and require a violation of public faith. The proper ground of the controversy, therefore, is really unoccupied by the opposers of the Treaty; as the very hinge of the debate is on the point, not of its being good, or otherwise, but whether it is intolerably and fatally pernicious? If loose and ignorant declaimers have anywhere asserted the latter idea, it is too extravagant, and too solidly refuted, to be repeated here. Instead of any attempt to expose it still further, I will say, and I appeal with confidence to the candor of many opposers of the Treaty to acknowledge, that if it had been permitted to go into operation silently, like our other Treaties, so little alteration of any sort would be made by it in the great mass of our commercial and agricultural concerns, that it would not be generally discovered, by its effects, to be in force, during the term for which it was contracted. I place considerable reliance on the weight men of candor will give to this remark, because I believe it to be true, and little short of undeniable. When the panic-dread of the Treaty shall cease, as it certainly must, it will be seen through another medium. Those who shall make search into the articles for the cause of their alarms, will be so far from finding stipulations that will operate fatally, they will discover few of them that will have any lasting operation at all. Those which relate to the disputes between the two countries will spend their force upon the subjects

in dispute, and extinguish them. The commercial articles are more of a nature to confirm the existing state of things, than to change it. The Treaty-alarm was purely an address to the imagination and prejudices of the citizens, and not on that account the less formidable. Objections that proceed upon error, in fact or calculation, may be traced and exposed. But such as are drawn from the imagination, or addressed to it, elude definition, and return to domineer over the mind, after having been banished from it by truth.

I will not so far abuse the momentary strength that is lent to me by the zeal of the occasion, as to enlarge upon the commercial operations of the Treaty.

I proceed to the second proposition, which I have stated as indispensably requisite to a refusal of the performance of the Treaty. Will the state of public opinion justify the deed?

No Government, not even a despotism, will break its faith without some pretext; and it must be plausible—it must be such as will carry the public opinion along with it. Reasons of policy, if not of morality, dissuade even Turkey and Algiers from breaches of Treaty in mere wantonness of perfidy, in open contempt of the reproaches of their subjects. Surely a popular Government will not proceed more arbitrarily as it is more free, nor with less shame or scruple in proportion as it has better morals. It will not proceed against the faith of Treaties at all, unless the strong and decided sense of the nation shall pronounce, not simply that the Treaty is not advantageous, but that it ought to be broken and annulled. Such a plain manifestation of the sense of the citizens is indispensably requisite, first, because if the popular apprehensions be not an infallible criterion of the disadvantages of the instrument, their acquiescence in the operation of it is an irrefragable proof that the extreme case does not exist which alone could justify our setting it aside.

In the next place, this approving opinion of the citizens is requisite as the best preventive of the ill consequences of a measure always so delicate, and often so hazardous. Individuals would, in that case at least, attempt to repel the opprobrium that would be thrown upon Congress by those who will charge it with perfidy. They would give weight to the testimony of facts and the authority of principles on which the Government would rest its vindication. And if war should ensue upon the violation, our citizens would not be divided from their Government, nor the ardor of their courage chilled by the consciousness of injustice, and the sense of humiliation—that sense which makes those despicable who know they are despised.

I add a third reason, and with me it has a force that no words of mine can augment, that a Government wantonly refusing to fulfil its engagements, is the corruptor of its citizens. Will the laws continue to prevail in the hearts of the people when the respect that gives them efficacy is withdrawn from the legislators? How shall we punish vice while we practise it? We have not

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force, and vain will be our reliance when we have forfeited the resources of opinion. To weaken Government and to corrupt morals, are effects of a breach of faith not to be prevented—and from effects they become causes, producing, with augmenting activity, more disorder and more corruption; order will be disturbed, and the life of the public liberty shortened.

And who, I would inquire, is hardy enough to pretend that the public voice demands the violation of the Treaty? The evidence of the sense of the great mass of the nation is often equivocal. But when was it ever manifested with more energy and precision than at the present moment? The voice of the people is raised against the measure of refusing the appropriations. If gentlemen should urge, nevertheless, that all this sound of alarm is a counterfeit expression of the sense of the people, I will proceed to other proofs. Is the Treaty ruinous to our commerce? What has blinded the eyes of the merchants and traders? Surely they are not enemies to trade, or ignorant of their own interests. Their sense is not so liable to be mistaken as that of a nation, and they are almost unanimous. The articles stipulating the redress of injuries by captures on the sea are said to be delusive. By whom is this said? The very men whose fortunes are staked upon the competency of that redress say no such thing. They wait with anxious fear lest you should annul that contract, on which all their hopes are rested.

Thus we offer proof, little short of absolute demonstration, that the voice of our country is raised, not to sanction, but to deprecate the non-performance of our engagements. It is not the nation, it is one, and but one branch of the Government that proposes to reject them. With this aspect of things, to reject it is an act of desperation.

I shall be asked, why a Treaty so good in some articles, and so harmless in others, has met with such unrelenting opposition; and how the clamors against it, from New Hampshire to Georgia, can be accounted for? The apprehensions so extensively diffused on its first publication, will be vouched as proof that the Treaty is bad, and that the people hold it in abhorrence.

I am not embarrassed to find the answer to this insinuation. Certainly a foresight of its pernicious operation could not have created all the fears that were felt or affected. The alarm spread faster than the publication of the Treaty. There were more critics than readers. Besides, as the subject was examined, those fears have subsided.

The movements of passion are quicker than those of the understanding. We are to search for the causes of first impressions, not in the articles of this obnoxious and misrepresented instrument, but in the state of the public feeling.

The fervor of the Revolutionary war had not entirely cooled, nor its controversies ceased, before the sensibilities of our citizens were quickened with a tenfold vivacity by a new and extraordinary subject of irritation. One of the two great

nations of Europe underwent a change, which has attracted all our wonder, and interested all our sympathies. Whatever they did, the zeal of many went with them, and often went to excess. These impressions met with much to inflame, and nothing to restrain them. In our newspapers, in our feasts, and some of our elections, enthusiasm was admitted a merit, a test of patriotism, and that made it contagious. In the opinion of party, we could not love or hate enough. I dare say, in spite of all the obloquy it may provoke, we were extravagant in both. It is my right to avow that passions so impetuous, enthusiasm so wild, could not subsist without disturbing the sober exercise of reason, without putting at risk the peace and precious interests of our country. They were hazarded. I will not exhaust the little breath I have left to say how much, nor by whom, or by what means they are rescued from the sacrifice. Shall I be called upon to offer my proofs? They are here—they are everywhere. No one has forgotten the proceedings of 1794.* No one has forgotten the captures of our vessels, and the imminent danger of war. The nation thirsted not merely for reparation, but vengeance. Suffering such wrongs, and agitated by such sentiments, was it in the power of any words of compact, or could any parchment with its seals prevail at once to tranquilize the people? It was impossible. Treaties in England are seldom popular, and least of all when the stipulations of amity succeeded to the bitterness of hatred. Even the best Treaty, though nothing be refused, will choke resentment, but not satisfy it. Every Treaty is as sure to disappoint extravagant expectations as to disarm extravagant passions. Of the latter, hatred is one that takes no bribes. They who are animated by the spirit of revenge will not be quieted by the possibility of profit.

Why do they complain that the West Indies are not laid open? Why do they lament that any

* Soon after France declared war against England, citizen Genet (whose civism had assisted the revolution that had just been effected at Geneva) was despatched to the United States for the purpose, as appears by his instructions, of engaging them to take part in the war, and in case the Government, from motives of prudence, and a desire to remain in peace, could not be enlisted, the people were to be stirred up, and by a revolutionary process, plunged into a contest which has done more injury to the morals and happiness of nations than all the wars of the last century.

Citizen Genet, perceiving that the success of his mission could only be effected by a revolutionary movement of the people, commenced his operations at the place of his landing, and by his own agency and that of his partisans, every popular passion was inflamed, and every convenient means employed through all the States to produce distrust and confusion among our citizens, and a disorganization of our Government. It must be in the recollection of all, that during the disgraceful contest between this foreign agent and our Executive, the public opinion for a time hung doubtful and undecided; to the honor of our country virtue and good sense ultimately triumphed over this incendiary.

The revolutionary labors of the citizen Genet were performed in the spring and summer of 1793; his instructions were probably early known in England, and the spirit and hostility towards that country, which during this season appeared throughout the United States, together with the numerous equipments in our ports of privateers under French commissions, must naturally have produced an opinion in the British Cabinet that the United States would ultimately engage in a war on the side of France. The Orders of the 6th of November, and the speech of Lord Dorchester to the Indians, are more satisfactorily accounted for by supposing the existence of this opinion in England, than by the extravagant supposition that has so often been made, that they mediated war against the United States because our citizens were free and our Government a Republic.

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restriction is stipulated on the commerce of the East Indies? Why do they pretend that if they reject this, and insist upon more, more will be accomplished? Let us be explicit—more would not satisfy. If all was granted, would not a Treaty of Amity with Great Britain still be obnoxious? Have we not this instant heard it urged against our Envoy that he was not ardent enough in his hatred to Great Britain? A Treaty of Amity is condemned because it was not made by a foe, and in the spirit of one. The same gentleman at the same instant repeats a very prevailing objection, that no Treaty should be made with the enemy of France. No Treaty, exclaim others, should be made with a Monarch or a Despot. There will be no naval security while those sea-robbers domineer on the ocean. Their den must be destroyed. That nation must be extirpated.

I like this, sir, because it is sincerity. With feelings such as these, we do not pant for Treaties. Such passions seek nothing, and will be content with nothing but the destruction of their object. If a Treaty left King George his island, it would not answer, not if he stipulated to pay rent for it. It has been said, the world ought to rejoice if Britain was sunk in the sea; if where there are now men and wealth and laws and liberty, there was no more than a sand bank for the sea monsters to fatten on—a space for the storms of the ocean to mingle in conflict.

I object nothing to the good sense or humanity of all this. I yield the point that this is a proof that the age of reason is in progress. Let it be philanthropy, let it be patriotism, if you will, but it is no indication that any Treaty would be approved. The difficulty is not to overcome the objections to the terms; it is to restrain the repugnance to any stipulations of amity with the party.

Having alluded to the rival of Great Britain, I am not unwilling to explain myself. I affect no concealment, and I practice none. While those two great nations agitate all Europe with their quarrels, they will both equally desire, and with any chance of success, equally endeavor to create an influence in America. Each will exert all its arts to range our strength on its own side. How is this to be effected? Our Government is a Democratical Republic. It will not be disposed to pursue a system of politics in subservience to either France or England, in opposition to the general wishes of the citizens; and, if Congress should adopt such measures, they would not be pursued long, nor with much success. From the nature of our Government, popularity is the instrument of foreign influence. Without it, all is labor and disappointment. With that mighty auxiliary, foreign intrigue finds agents not only volunteers, but competitors for employment, and any thing like reluctance is understood to be a crime. His Britain this means of influence? Certainly not. If her gold could buy adherents, their becoming such would deprive them of all political power and importance. They would not wield popularity as a weapon, but would fall under it. Britain has no influence, and, for the reasons just

given, can have none. She has enough, and God forbid she ever should have more. France, possessed of popular enthusiasm, of party attachments, has had, and still has, too much influence in our politics—any foreign influence is too much, and ought to be destroyed. I detest the man and disdain the spirit that can bend to a mean subservience to the views of any nation. It is enough to be Americans. That character comprehends our duties, and ought to engross our attachments.

But I would not be misunderstood. I would not break the alliance with France. I would not have the connexion between the two countries even a cold one. It should be cordial and sincere, but I would banish that influence, which, by acting on the passions of the citizens, may acquire a power over the Government.

It is no bad proof of the merit of the Treaty that, under all these unfavorable circumstances, it should be so well approved. In spite of first impressions, in spite of misrepresentations and party clamor, inquiry has multiplied its advocates, and at last the public sentiment appears to me clearly preponderating on its side. On the most careful review of the several branches of the Treaty—those which respect political arrangements, the spoliation on our trade, and the regulation of commerce—there is little to be apprehended. The evil, aggravated as it is by party, is little in degree, and short in duration. Two years from the end of the European war, I ask, and I would ask the question significantly, what are the inducements to reject the Treaty? What great object is to be gained, and fairly gained by it? If, however, as to the merits of the Treaty, candor should suspend its approbation, what is there to hold patriotism a moment in balance as to the violation of it? Nothing; I repeat confidently, nothing. There is nothing before us in that event but confusion and dishonor. But before I attempt to develop those consequences, I must put myself at ease by some explanations.

Nothing is worse received among men than the confutation of their opinions; and of those, none are more dear or more vulnerable than their political opinions. To say that a proposition leads to shame and ruin, is almost equivalent to a charge that the supporters of it intend to produce them. I throw myself upon the magnanimity and candor of those who hear me. I cannot do justice to my subject, without exposing, as forcibly as I can, all the evils in prospect. I readily admit that in every science, and most of all in politics, error springs from other sources than the want of sense or integrity. I despise indiscriminate professions of candor and respect. There are individuals opposed to me of whom I am not bound to say anything. But of many, perhaps of a majority of the opposers of the appropriations, it gives me pleasure to declare they possess my confidence and regard. There are among them individuals for whom I entertain a cordial affection.

The consequences of refusing to make provision for the Treaty are not all to be foreseen. By rejecting, vast interests are committed to the sport of the winds, chance becomes the arbiter of events,

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and it is forbidden to human foresight to count their number, or measure their extent. Before we resolve to leap into this abyss, so dark and so profound, it becomes us to pause and reflect upon such of the dangers as are obvious and inevitable. If this assembly should be wrought into a temper to defy these consequences, it is vain, it is deceptive, to pretend that we can escape them. It is worse than weakness to say, that as to public faith our vote has already settled the question. Another tribunal than our own is already erected. The public opinion, not merely of our own country, but of the enlightened world, will pronounce judgment that we cannot resist, that we dare not even affect to despise.

Well may I urge it to men who know the worth of character, that it is no trivial calamity to have it contested. Refusing to do what the Treaty stipulates shall be done, opens the controversy. Even if we should stand justified at last, a character that is vindicated is something worse than it stood before, unquestioned and unquestionable. Like the plaintiff in an action of slander, we recover a reputation disfigured by invective, and even tarnished by too much handling. In the combat for the honor of the nation, it may receive some wounds, which, though they should heal, will leave some scars. I need not say, for surely the feelings of every bosom have anticipated, that we cannot guard this sense of national honor, this ever-living fire, which alone keeps patriotism warm in the heart, with a sensibility too vigilant and jealous. If, by executing the Treaty, there is no possibility of dishonor, and if by rejecting there is some foundation for doubt and for reproach, it is not for me to measure, it is for your own feelings to estimate the vast distance that divides the one side of the alternative from the other. If, therefore, we should enter on the examination of the question of duty and obligation with some feelings of prepossession, I do not hesitate to say, they are such as we ought to have; it is an after inquiry to determine whether they are such as ought finally to be resisted.

The resolution [Mr. BLOUNT'S] is less explicit than the Constitution. Its patrons should have made it more so, if possible, if they had any doubts or meant the public should entertain none. Is it the sense of that vote, as some have insinuated, that we claim a right for any cause, or no cause at all, but our own sovereign will and pleasure, to refuse to execute, and thereby to annul the stipulations of a Treaty?—that we have nothing to regard but the expediency or in expediency of the measure, being absolutely free from all obligation by compact to give it our sanction? A doctrine so monstrous, so shameless, is refuted by being avowed. There are no words you could express it in that would not convey both confusion and reproach. It would outrage the ignorance of the tenth century to believe, it would baffle the casuistry of a Papal Council to vindicate. I venture to say, it is impossible. No less impossible than that we should desire to assert the scandalous privilege of being free after we have pledged our honor.

It is doing injustice to the resolution of the

House (which I dislike on many accounts) to strain the interpretation of it to this extravagance. The Treaty-making power is declared by it to be vested exclusively in the PRESIDENT and Senate. Will any man in his senses affirm that it can be a Treaty before it has any binding force or obligation? If it has no binding force upon us, it has none upon Great Britain. Let candor answer, is Great Britain free from any obligation to deliver the posts in June, and are we willing to signify to her that we think so? Is it with that nation a question of mere expediency or in expediency to do it, and that, too, even after we have done all that depends upon us to give the Treaty effect? No sober man can believe this—no one who would not join in condemning the faithless proceedings of that nation, if such a doctrine should be avowed and carried into practice. And why complain, if Great Britain is not bound? There can be no breach of faith where none is plighted. I shall be told that she is bound. Surely it follows that if she is bound to performance, our nation is under a similar obligation; if both parties be not obliged, neither is obliged—it is no compact, no Treaty. This is a dictate of law and common sense, and every jury in the country has sanctioned it on oath. It cannot be a Treaty, and yet no Treaty; a bargain, and yet no promise. If it is a promise, I am not to read a lecture to show why an honest man will keep his promise.

The reason of the thing, and the words of the resolution of the House, imply, that the United States engage their good faith in a Treaty. We disclaim, say the majority, the Treaty-making power; we of course disclaim (they ought to say) every doctrine that would put a negative upon the doings of that power. It is the prerogative of folly alone to maintain both sides of a proposition.

Will any man affirm the American nation is engaged by good faith to the British nation, but that engagement is nothing to this House? Such a man is not to be reasoned with. Such a doctrine is a coat-of-mail, that would turn the edge of all the weapons of argument, if they were sharper than a sword. Will it be imagined the King of Great Britain and the PRESIDENT are mutually bound by the Treaty, but the two nations are free? It is one thing for this House to stand in a position that presents an opportunity to break the faith of America, and another to establish a principle that will justify the deed.

We feel less repugnance to believe that any other body is bound by obligation than our own. There is not a man here who does not say that Great Britain is bound by Treaty. Bring it nearer home. Is the Senate bound? Just as much as the House, and no more. Suppose the Senate, as part of the Treaty power, by ratifying a Treaty on Monday, pledges the public faith to do a certain act. Then, in their ordinary capacity, as a branch of the Legislature, the Senate is called upon on Tuesday to perform that act, for example, an appropriation of money; is the Senate (so lately under obligation) now free to agree or disagree to the act? If the twenty ratifying Senators should rise up and avow this principle, saying, we strug-

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gle for liberty, we will not be cyphers, mere puppets, and give their votes accordingly, would not shame blister their tongues, would not infamy tingle in their ears—would not their country, which they had insulted and dishonored, though it should be silent and forgiving, be a revolutionary tribunal, a rack on which their own reflections would stretch them?

This, sir, is a cause that would be dishonored and betrayed, if I contented myself with appealing only to the understanding. It is too cold, and its processes are too slow for the occasion. I desire to thank God, that since he has given me an intellect so fallible, he has impressed upon me an instinct that is sure. On a question of shame and honor, reasoning is sometimes useless, and worse. I feel the decision in my pulse; if it throws no light upon the brain, it kindles a fire at the heart.

It is not easy to deny, it is impossible to doubt, that a Treaty imposes an obligation on the American nation. It would be childish to consider the President and Senate obliged, and the nation and the House free. What is the obligation; perfect or imperfect? If perfect, the debate is brought to a conclusion. If imperfect, how large a part of our faith is pawned? Is half our honor put out at risk, and is that half too cheap to be redeemed? How long has this hair-splitting subdivision of good faith been discovered, and why has it escaped the researches of the writers on the Law of Nations? Shall we add a new chapter to that law, or insert this doctrine as a supplement to, or more properly, a repeal of, the Ten Commandments?

The principles and the examples of the British Parliament have been alleged to coincide with the doctrine of those who deny the obligation of the Treaty. I have not had the health to make very laborious researches into this subject; I will, however, sketch my view of it. Several instances have been noticed, but the Treaty of Utrecht is the only one that seems to be at all applicable. It has been answered that the conduct of Parliament, in that celebrated example, affords no sanction to our refusal to carry the Treaty into effect. The obligation of the Treaty of Utrecht has been understood to depend on the concurrence of Parliament, as a condition to its becoming of force. If that opinion should, however, appear incorrect, still the precedent proves, not that the Treaty of Utrecht wanted obligation, but that Parliament disregarded it; a proof, not of the construction of the Treaty-making power, but of the violation of a national engagement. Admitting, still further, that Parliament claimed and exercised its power, not as a breach of faith, but as a matter of Constitutional right, I reply that the analogy between Parliament and Congress totally fails. The nature of the British Government may require and justify a course of proceeding in respect to Treaties that is unwarrantable here.

The British Government is a mixed one. The King, at the head of the army of the hierarchy, with an ample civil list, hereditary, irresponsible, and possessing the prerogative of peace and war, may be properly observed with some jealousy, in respect to the exercise of the Treaty-making power.

It seems, and perhaps from a spirit of caution on this account, to be their doctrine, that Treaties bind the nation, but are not to be regarded by the Courts of Law, until laws have been passed conformably to them. Our Constitution has expressly regulated the matter differently. The concurrence of Parliament is necessary to Treaties becoming laws in England, gentlemen say, and here the Senate, representing the States, must concur in Treaties. The Constitution and the reason of the case make the concurrence of the Senate as effectual as the sanction of Parliament. And why not? The Senate is an elective body, and the approbation of a majority of the States affords the nation as ample security against the abuse of the Treaty-making power, as the British nation can enjoy in the control of Parliament.

Whatever doubt there may be as to the Parliamentary doctrine of the obligation of Treaties in Great Britain, (and perhaps there is some,) there is none in their books, or their modern practice. *Blackstone* represents Treaties as of the highest obligation, when ratified by the King; and for almost a century there has been no instance of opposition by Parliament to this doctrine. Their Treaties have been uniformly carried into effect, although many have been ratified of a nature most obnoxious to party, and have produced louder clamor than we have lately witnessed. The example of England, therefore, fairly examined, does not warrant, it dissuades us from a negative vote.

Gentlemen have said, with spirit, whatever the true doctrine of our Constitution may be, Great Britain has no right to complain or to dictate an interpretation: The sense of the American nation as to the Treaty-power is to be received by all foreign nations. This is very true as a maxim; but the fact is against those who vouch it. The sense of the American nation is not as the vote of the House has declared it. Our claim to some agency in giving force and obligation to Treaties, is beyond all kind of controversy novel. The sense of the nation is probably against it: the sense of the Government certainly is. The President denies it, on Constitutional grounds, and therefore cannot ever accede to our interpretation. The Senate ratified the Treaty, and cannot without dishonor adopt it, as I have attempted to show. Where then do they find the proof that this is the American sense of the Treaty-making power, which is to silence the murmurers of Great Britain? Is it because a majority of two or three, or at the most of four or five of this House, will reject the Treaty? Is it thus the sense of our nation is to be recognized? Our Government may thus be stopped in its movements: a struggle for power may thus commence, until the event of the conflict may decide who is the victor and the quiet possessor of the Treaty power. But, at present, it is beyond all credibility that our vote by a bare majority should be believed to do anything better than embitter our divisions, and to tear up the settled foundations of our departments.

If the obligation of a Treaty be complete, I am aware that cases sometimes exist which will jus-

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tify a nation in refusing a compliance. Are our liberties (gentlemen demand) to be bartered away by a Treaty, and is there no remedy? There is. Extremes are not to be supposed, but when they happen they make the law for themselves. No such extreme can be pretended in this instance; and if it existed, the authority it would confer to throw off the obligation would rest, where the obligation itself resides, in the nation. This House is not the nation; it is not the whole delegated authority of the nation. Being only a part of that authority, its right to act for the whole society obviously depends on the concurrence of the other two branches. If they refuse to concur, a Treaty once made remains in full force, although a breach on the part of a foreign nation would confer upon our own a right to forbear the execution. I repeat it, even in that case, the act of this House cannot be admitted as the act of the nation, and if the President and Senate should not concur, the Treaty would be obligatory.

I put a case that will not fail to produce conviction. Our Treaty with France engages that free bottoms shall make free goods, and how has it been kept? As such engagements will ever be in time of war. France has set it aside, and pleads imperious necessity. We have no navy to enforce the observance of such articles, and paper barriers are weak against the violence of those who are on the scramble for enemy's goods on the high seas. The breach of any article of a Treaty by one nation gives an undoubted right to the other to renounce the whole Treaty. But has one branch of the Government that right, or must it reside with the whole authority of the nation? What if the Senate should resolve that the French Treaty is broken, and therefore null and of no effect? The answer is obvious, you would deny their sole authority. That branch of the Legislature has equal power in this regard with the House of Representatives. One branch alone cannot express the will of the nation. A right to annul a Treaty, because a foreign nation has broken its articles, is only like the case of a sufficient cause to repeal a law. In both cases the branches of our Government must concur in the ordinary way, or the law and the Treaty will remain.

The very cases supposed by my adversaries in this argument, conclude against themselves. They will persist in confounding ideas that should be kept distinct. They will suppose that the House of Representatives has no power unless it has all power. The House is nothing if it be not the whole Government—the nation.

On every hypothesis, therefore, the conclusion is not to be resisted, we are either to execute this Treaty or break our faith.

To expatiate on the value of public faith, may pass with some men for declamation; to such men I have nothing to say. To others I will urge, can any circumstance mark upon a people more turpitude and debasement? Can anything tend more, to make men think themselves mean, or degrade, to a lower point their estimation of virtue and their standard of action? It would not merely

demoralize mankind, it tends to break all the ligaments of society, to dissolve that mysterious charm which attracts individuals to the nation, and to inspire in its stead a repulsive sense of shame and disgust.

What is patriotism? Is it a narrow affection for the spot where a man was born? Are the very clods where we tread entitled to this ardent preference because they are greener? No, sir, this is not the character of the virtue, and it soars higher for its object. It is an extended self-love, mingling with all the enjoyments of life, and twisting itself with the minutest filaments of the heart. It is thus we obey the laws of society, because they are the laws of virtue. In their authority we see not the array of force and terror, but the venerable image of our country's honor. Every good citizen makes that honor his own, and cherishes it not only as precious but as sacred. He is willing to risk his life in its defence, and is conscious that he gains protection while he gives it. For what rights of a citizen will be deemed inviolable when a State renounces the principles that constitute their security? Or, if his life should not be invaded, what would its enjoyments be in a country odious to the eyes of strangers and dishonored in his own? Could he look with affection and veneration to such a country as his parent? The sense of having one would die within him; he would blush for his patriotism, if he retained any, and justly, for it would be a vice. He would be a banished man in his native land.

I see no exception to the respect that is paid among nations to the Law of Good Faith. If there are cases in this enlightened period when it is violated, there are none when it is decried. It is the philosophy of politics—the religion of Governments. It is observed by barbarians that a whiff of tobacco smoke or a string of beads gives not merely binding force, but sanctity to Treaties. Even in Algiers, a truce may be bought for money, but when ratified, even Algiers is too wise or too just to disown and annul its obligation. Thus, we see neither the ignorance of savages, nor the principles of an association for piracy and rapine, permit a nation to despise its engagements. If, sir, there could be a resurrection from the foot of the gallows; if the victims of justice could live again, collect together, and form a society, they would, however loth, soon find themselves obliged to make justice—that justice under which they fell—the fundamental law of their State. They would perceive it was their interest to make others respect, and they would therefore soon pay some respect themselves to the obligations of good faith.

It is painful (I hope it is superfluous) to make even the supposition that America should furnish the occasion of this opprobrium. No, let me not even imagine that a Republican Government, sprung, as our own is, from a people enlightened and uncorrupted; a Government whose origin is right and whose daily discipline is duty, can, upon solemn debate, make its option to be faithless—can dare to act what despots dare not avow—what our own example evinces the States of Barbary are unsuspected of! No, let me rather make the

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supposition that Great Britain refuses to execute the Treaty, after we have done everything to carry it into effect. Is there any language of reproach pungent enough to express your commentary on the fact? What would you say, or rather what would you not say? Would you not tell them, "Wherever an Englishman might travel, shame would stick to him; he would disown his country?" You would exclaim, "England—proud of your wealth, and arrogant in the possession of power—blush for these distinctions which become the vehicles of your dishonor!" Such a nation might truly say to Corruption, "Thou art my father, and to the Worm, thou art my mother and sister!" We should say of such a race of men, their name is a heavier burden than their debt.

I can scarcely persuade myself to believe that the consideration I have suggested requires the aid of any auxiliary. But, unfortunately, auxiliary arguments are at hand. Five millions of dollars, and probably more, on the score of spoiliations committed on our commerce, depend upon the Treaty. The Treaty offers the only prospect of indemnity. Such redress is promised as the merchants place some confidence in. Will you interpose and frustrate that hope, leaving to many families nothing but beggary and despair? It is a smooth proceeding to take a vote in this body. It takes less than half an hour to call the yeas and nays, and reject the Treaty. But what is the effect of it? What, but this: the very men, formerly so loud for redress, such fierce champions, that even to ask for justice was too mean and too slow—now turn their capricious fury upon the sufferers, and say, by their vote, to them and their families, "No longer eat bread! Petitioners, go home and starve; we cannot satisfy your wrongs and our resentments!"

Will you pay the sufferers out of the Treasury? No. The answer was given two years ago, and appears on our Journals. Will you give them letters of marque and reprisal to pay themselves by force? No; that is war. Besides, it would be an opportunity for those who had already lost much to lose more. Will you go to war to avenge their injury? If you do, the war will leave you no money to indemnify them. If it should be unsuccessful, you will aggravate existing evils; if successful, your enemy will have no treasure left to give our merchants; the first losses will be confounded with much greater, and be forgotten. At the end of the war there must be a negotiation, which is the very point we have already gained, and why relinquish it? And who will be confident that the terms of the negotiation, after a desolating war, would be more acceptable to another House of Representatives than the Treaty before us? Members and opinions may be so changed, that the Treaty would then be rejected for being what the present majority say it should be. Whether we shall go on making Treaties, and refusing to execute them, I know not;—of this I am certain, it will be very difficult to exercise the Treaty-making power, on the new principles, with much reputation or advantage to the country.

The refusal of the posts (inevitable if we reject

the Treaty) is a measure too decisive in its nature to be neutral in its consequences. From great causes we are to look for great effects. A plain and obvious one will be, the price of the Western lands will fall. Settlers will not choose to fix their habitation on a field of battle. Those who talk so much of the interest of the United States, should calculate how deeply it will be affected by rejecting the Treaty—how vast a tract of wild land will almost cease to be property. This loss, let it be observed, will fall upon a fund expressly devoted to sink the National Debt. What then are we called upon to do? However the form of the vote and the protestations of many may disguise the proceeding, our resolution is in substance (and it deserves to wear the title of a resolution) to prevent the sale of the Western lands and the discharge of the Public Debt.

Will the tendency to Indian hostilities be contested by any one? Experience gives the answer. The frontiers were scourged with war till the negotiation with Britain was far advanced, and then the state of hostility ceased. Perhaps the public agents of both nations are innocent of fomenting the Indian war, and perhaps they are not. We ought not however to expect that neighboring nations, highly irritated against each other, will neglect the friendship of the savages. The traders will gain an influence, and will abuse it; and who is ignorant that their passions are easily raised, and hardly restrained from violence. Their situation will oblige them to choose between this country and Great Britain, in case the Treaty should be rejected. They will not be our friends, and at the same time the friends of our enemies.

But am I reduced to the necessity of proving this point? Certainly the very men who charged the Indian war on the detention of the posts will call for no other proof than the recital of their own speeches. It is remembered with what emphasis—with what acrimony—they expatiated on the burden of taxes, and the drain of blood and treasure into the Western country, in consequence of Britain's holding the posts. "Until the posts are restored," they exclaimed, "the Treasury and the frontiers must bleed."

If any, against all these proofs, should maintain that the peace with the Indians will be stable without the posts, to them I will urge another reply. From arguments calculated to produce conviction, I will appeal directly to the hearts of those who hear me, and ask whether it is not already planted there? I resort especially to the convictions of the Western gentlemen, whether, supposing no posts and no Treaty, the settlers will remain in security? Can they take it upon them to say that an Indian peace, under these circumstances, will prove firm? No, sir, it will not be peace, but a sword; it will be no better than a lure to draw victims within the reach of the tomahawk.

On this theme, my emotions are unutterable. If I could find words for them—if my powers bore any proportion to my zeal—I would swell my voice to such a note of remonstrance it should reach every log-house beyond the mountains. I would say to the inhabitants, Wake from your false secu-

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riety! Your cruel dangers—your more cruel apprehensions—are soon to be renewed; the wounds, yet unhealed, are to be torn open again. In the day time, your path through the woods will be ambushed; the darkness of midnight will glitter with the blaze of your dwellings. You are a father: the blood of your sons shall fatten your corn-field! You are a mother: the war-whoop shall wake the sleep of the cradle!

On this subject you need not suspect any deception on your feelings. It is a spectacle of horror which cannot be overdrawn. If you have nature in your hearts, it will speak a language compared with which all I have said or can say will be poor and frigid.

Will it be whispered that the Treaty has made me a new champion for the protection of the frontiers? It is known that my voice, as well as my vote, have been uniformly given in conformity with the ideas I have expressed. Protection is the right of the frontier: it is our duty to give it.

Who will accuse me of wandering out of the subject? Who will say that I exaggerate the tendencies of our measures? Will any one answer by a sneer, that all this is idle preaching? Will any one deny that we are bound—and I would hope to good purpose—by the most solemn sanctions of duty for the vote we give? Are despots alone to be reproached for unfeeling indifference to the tears and blood of their subjects? Are Republicans irresponsible? Have the principles on which you ground the reproach upon Cabinets and Kings no practical influence—no binding force? Are they merely themes of idle declamation, introduced to decorate the morality of a newspaper essay, or to furnish pretty topics of harangue from the windows of that State-house? I trust it is neither too presumptuous, nor too late to ask, can you put the dearest interest of society at risk without guilt, and without remorse?

It is vain to offer as an excuse, that public men are not to be reproached for the evils that may happen to ensue from their measures. This is very true, where they are unforeseen or inevitable. Those I have depicted are not unforeseen; they are so far from inevitable, we are going to bring them into being by our vote. We choose the consequences, and become as justly answerable for them as for the measure that we know will produce them.

By rejecting the posts, we light the savage fires—we bind the victims. This day we undertake to render accounts to the widows and orphans whom our decision will make; to the wretches that will be roasted at the stake; to our country; and I do not deem it too serious to say, to conscience, and to God—we are answerable; and if duty be anything more than a word of imposture, if conscience be not a bug-bear, we are preparing to make ourselves as wretched as our country.

There is no mistake in this case; there can be none. Experience has already been the prophet of events, and the cries of our future victims have already reached us. The Western inhabitants are not a silent and uncomplaining sacrifice.

The voice of humanity issues from the shade of their wilderness. It exclaims that while one hand is held up to reject this Treaty, the other grasps a tomahawk. It summons our imagination to the scenes that will open. It is no great effort of the imagination to conceive, that events so near are already begun. I can fancy that I listen to the yells of savage vengeance, and the shrieks of torture. Already they seem to sigh in the West wind; already they mingle with every echo from the mountains.

It is not the part of prudence to be inattentive to the tendencies of measures. Where there is any ground to fear that these will be pernicious, wisdom and duty forbid that we should underrate them. If we reject the Treaty, will our peace be as safe as if we execute it with good faith? I do honor to the intrepid spirit of those who say it will. It was formerly understood to constitute the excellence of a man's faith, to believe without evidence, and against it.

But, as opinions on this article are changed, and we are called to act for our country, it becomes us to explore the dangers that will attend its peace, and to avoid them if we can.

Few of us here, and fewer still in proportion of our constituents will doubt that, by rejecting, all those dangers will be aggravated.

The idea of a war is treated as a bug-bear. This levity is, at least, unseasonable; and, most of all, unbecoming some who resort to it.

Who have forgotten the philippics of 1794? The cry then was, reparation, no Envoy, no Treaty, no tedious delays! Now, it seems, the passion subsides; or, at least, the hurry to satisfy it. Great Britain, say they, will not wage war upon us.

In 1794, it was urged by those who now say, no war, that if we built frigates, or resisted the pirates of Algiers, we could not expect peace. Now they give excellent comfort, truly! Great Britain has seized our vessels and cargoes, to the amount of millions; she holds the posts; she interrupts our trade, say they, as a neutral nation; and these gentlemen, formerly so fierce for redress, assure us, in terms of the sweetest consolation, Great Britain will bear all this patiently. But, let me ask the late champions of our rights, will our nation bear it? Let others exult because the aggressor will let our wrongs sleep forever. Will it add, it is my duty to ask, to the patience and quiet of our citizens, to see their rights abandoned? Will not the disappointment of their hopes, so long patronized by the Government, now in the crisis of their being realized, convert all their passions into fury and despair?

Are the posts to remain forever in the possession of Great Britain? Let those who reject them, when the Treaty offers them to our hands, say, if they choose, they are of no importance. If they are, will they take them by force? The argument I am urging would then come to a point. To use force, is war. To talk of Treaty again, is too absurd. Posts and redress must come from voluntary good will, Treaty, or war.

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The conclusion is plain; if the state of peace shall continue, so will the British possession of the posts.

Look again at this state of things. On the sea-coast, vast losses uncompensated. On the frontier, Indian war, actual encroachment on our Territory. Everywhere discontent; resentments ten-fold more fierce, because they will be impotent and humbled; national discord and abasement.

The disputes of the old Treaty of 1783 being left to rankle, will revive the almost extinguished animosities of that period. Wars, in all countries, and, most of all, in such as are free, arise from the impetuosity of the public feelings. The despotism of Turkey is often obliged, by clamor, to unsheath the sword. War might, perhaps, be delayed, but could not be prevented. The causes of it would remain, would be aggravated, would be multiplied, and soon become intolerable. More captures, more impressments, would swell the list of our wrongs, and the current of our rage. I make no calculation of the arts of those whose employment it has been, on former occasions, to fan the fire. I say nothing of the foreign money and emissaries that might foment the spirit of hostility, because the state of things will naturally run to violence. With less than their former exertion, they would be successful.

Will our Government be able to temper and restrain the turbulence of such a crisis? The Government, alas, will be in no capacity to govern. A divided people, and divided councils! Shall we cherish the spirit of peace, or show the energies of war? Shall we make our adversary afraid of our strength, or dispose him, by the measures of resentment and broken faith, to respect our rights? Do gentlemen rely on the state of peace because both nations will be worse disposed to keep it; because injuries, and insults still harder to endure, will be mutually offered?

Such a state of things will exist, if we should long avoid war, as will be worse than war. Peace without security, accumulation of injury without redress, or the hope of it, resentment against the aggressor, contempt for ourselves, intestine discord and anarchy. Worse than this need not be apprehended, for if worse could happen, anarchy would bring it. Is this the peace gentlemen undertake, with such fearless confidence, to maintain? Is this the station of American dignity, which the high-spirited champions of our national independence and honor could endure; nay, which they are anxious and almost violent to seize for the country? What is there in the Treaty that could humble us so low? Are they the men to swallow their resentments, who so lately were choking with them? If in the case contemplated by them, it should be peace, I do not hesitate to declare it ought not to be peace.

Is there anything in the prospect of the interior state of the country, to encourage us to aggravate the dangers of a war? Would not the shock of that evil produce another, and shake down the feeble and then unbraced structure of our Govern-

ment? Is this the chimera? Is it going off the ground of matter of fact to say, the rejection of the appropriation proceeds upon the doctrine of a civil war of the departments? Two branches have ratified a Treaty, and we are going to set it aside. How is this disorder in the machine to be rectified? While it exists, its movements must stop, and when we talk of a remedy, is that any other than the formidable one of a revolutionary interposition of the people? And is this, in the judgment even of my opposers, to execute, to preserve the Constitution, and the public order? Is this the state of hazard, if not of convulsion, which they can have the courage to contemplate and to brave, or beyond which their penetration can reach and see the issue? They seem to believe, and they act as if they believed, that our Union, our peace, our liberty, are invulnerable and immortal—as if our happy state was not to be disturbed by our dissensions, and that we are not capable of falling from it by our unworthiness. Some of them have no doubt better nerves and better discernment than mine. They can see the bright aspects and happy consequences of all this array of horrors. They can see intestine discords, our Government disorganized, our wrongs aggravated, multiplied and unredressed, peace with dishonor, or war without justice, union or resources, in “*the calm lights of mild philosophy*.”

But whatever they may anticipate as the next measure of prudence and safety, they have explained nothing to the House. After rejecting the Treaty, what is to be the next step? They must have foreseen what ought to be done, they have doubtless resolved what to propose. Why then are they silent? Dare they not avow their plan of conduct, or do they wait till our progress towards confusion shall guide them in forming it?

Let me cheer the mind, weary no doubt and ready to despond on this prospect, by presenting another, which it is yet in our power to realize. Is it possible for a real American to look at the prosperity of this country without some desire for its continuance, without some respect for the measures which, many will say, produced, and all will confess, have preserved it? Will he not feel some dread that a change of system will reverse the scene? The well-grounded fears of our citizens in 1794 were removed by the Treaty, but are not forgotten. Then they deemed war nearly inevitable, and would not this adjustment have been considered at that day as a happy escape from the calamity? The great interest, and the general desire of our people, was, to enjoy the advantages of neutrality. This instrument, however misrepresented, affords America that inestimable security. The causes of our disputes are either cut up by the roots, or referred to a new negotiation, after the end of the European war. This was gaining everything, because it confirmed our neutrality, by which our citizens are gaining everything. This alone would justify the engagements of the Government. For, when the fiery vapors of the war lowered in the skirts of

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our horizon, all our wishes were concentrated in this one, that we might escape the desolation of the storm. This Treaty, like a rainbow on the edge of the cloud, marked to our eyes the space where it was raging, and afforded at the same time the sure prognostic of fair weather. If we reject it, the vivid colors will grow pale; it will be a baleful meteor, portending tempest and war.

Let us not hesitate, then, to agree to the appropriation to carry it into faithful execution. Thus we shall save the faith of our nation, secure its peace, and diffuse the spirit of confidence and enterprise that will augment its prosperity. The progress of wealth and improvement is wonderful, and some will think, too rapid. The field for exertion is fruitful and vast, and if peace and good Government should be preserved, the acquisitions of our citizens are not so pleasing as the proofs of their industry, as the instruments of their future success. The rewards of exertion go to augment its power. Profit is every hour becoming capital. The vast crop of our neutrality is all seed wheat, and is sown again to swell, almost beyond calculation, the future harvest of prosperity: and in this progress, what seems to be fiction, is found to fall short of experience.

I rose to speak under impressions that I would have resisted if I could. Those who see me will believe that the reduced state of my health has unfitted me, almost equally, for much exertion of body or mind. Unprepared for debate, by careful reflection in my retirement, or by long attention here, I thought the resolution I had taken to sit silent, was imposed by necessity, and would cost me no effort to maintain. With a mind thus vacant of ideas, and sinking, as I really am, under a sense of weakness, I imagined the very desire of speaking was extinguished by the persuasion that I had nothing to say. Yet, when I come to the moment of deciding the vote, I start back with dread from the edge of the pit into which we are plunging. In my view, even the minutes I have spent in expostulation have their value, because they protract the crisis, and the short period in which alone we may resolve to escape it.

I have thus been led by my feelings to speak more at length than I had intended; yet I have, perhaps, as little personal interest in the event as any one here. There is, I believe, no member who will not think his chance to be a witness of the consequences greater than mine. If, however, the vote should pass to reject, and a spirit should rise, as it will with the public disorders to make confusion worse confounded, even I, slender and almost broken as my hold up in life is, may outlive the Government and Constitution of my country.

At the conclusion of Mr. AMES's speech, there was again a divided cry of "Committee, rise," and "The question;" when—

Mr. VENABLE said, he hoped the question would not be taken to-day. The business was allowed on all hands to be important, and one day he trusted would not make much difference. He said there were mischievous effects staring them in the face, look which way they would; for if they refused to carry the Treaty into effect evils might be

dreaded, and if they carried it into effect very serious evils would certainly arise. The question was to choose the least of the two evils. He himself was not determined at present which was the least, and wished for another day's consideration.

The Committee divided, and there appeared 70 members for rising. Adjourned.

FRIDAY, April 29.

Mr. GOODHUE, Chairman of the Committee of Commerce and Manufactures, reported an act to continue in force an act in the State of Maryland for the appointment of a Health Officer at the port of Baltimore; which was twice read and ordered to be engrossed for the third reading.

Mr. BALDWIN called up a bill relative to the Military Establishment; upon which the House formed itself into a Committee of the Whole, and after agreeing upon some amendments, one of which was the introduction of a troop or two of light dragoons into the establishment, the Committee rose, and had leave to sit again.

EXECUTION OF BRITISH TREATY.

Numerous petitions were presented and referred, in favor of carrying the Treaty into effect.

Mr. SEDGWICK informed the House that he had in his hand a letter from Boston, addressed to the Representatives of Massachusetts in Congress, informing them that a public meeting had been held to consider upon the propriety of petitioning the House to request that necessary measures might be taken to carry the British Treaty into effect, at which it was supposed 2,200 persons were present, and that more than 1,800 were in favor of the measure. As it appeared the petition which was agreed on at that meeting would not come to hand until the next post-day, and as the question to which it related might in the mean time be taken, he and his colleagues thought it necessary to make this communication.

The House then resolved itself into a Committee of the Whole on the state of the Union; and the resolution for carrying into effect the British Treaty being under consideration—

Mr. N. SMITH said it was with diffidence he rose to offer any of his sentiments to the Committee, after so many able arguments had been exhibited on the subject; but he should beg leave to offer a few remarks relative to some parts of the Treaty, and also to evince that the national faith must be considered as already pledged; but, even if this was not the case, that, under all the circumstances relating to the question before them, it was expedient to give effect to the Treaty. He observed that the gentleman from Pennsylvania [Mr. FINKLEY] appeared yet to be in doubt whether the appointment of Commissioners to settle the claims on the United States did not render the Treaty unconstitutional. Mr. S. said, if the arguments already offered on that subject had not convinced the gentleman, he very much doubted whether any arguments could convince him. They appeared to him conclusive. All the Commissioners were empowered to do, was to settle claims on

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the nation. The Judiciary had no power to decide on claims against the United States. It was absolutely necessary, therefore, whenever disputes arose in consequence of claims on the Government, to establish a new forum; and there was no room for a pretence of interference with the Judiciary, so long as the Commissioners were to do what the Judiciary could not do, even if they were not appointed.

A gentleman up two days since, [Mr. GALLATIN,] had concluded a long speech by observing that he could even waive the whole of his objections to the Treaty, were it not for one article, which he told us contained in it a dereliction of our independence; and he confessed, before the gentleman informed them what article he referred to, he was almost induced to believe, after all his attention to the subject, he had overlooked some essential article in the Treaty which would again introduce the Colonial system, and subject us once more to British tyranny; but, to his astonishment, when the gentleman came to turn their attention to the article, it appeared to be no more than the 18th article, containing regulations relating to property which is contraband by the Law of Nations, and is in general merely declaratory of the Law of Nations. The gentleman, however, as well as several others, had contended that the second paragraph in the 18th article contained a general provision that articles not generally contraband, but became so by the Law of Nations, owing to particular circumstances, should not be confiscated, but be detained and paid for; and that the last paragraph contained a provision, that whenever a vessel was bound to a blockaded port, not knowing it to be blockaded, she should be notified and turned away; after which, if she again attempted to enter, her cargo might be confiscated, though the articles were not generally contraband. They contended further, that, by the Law of Nations, no other instance can be found where property not generally contraband may be regarded as such, from particular circumstances, except a vessel bound to a blockaded port. Of course they say, the last paragraph provides for confiscating all the property not generally contraband, but becomes so from circumstances, and therefore provides for confiscating the very articles which the second paragraph declares shall not be confiscated, but be detained and paid for. The second paragraph consequently can have no operation, unless they find another meaning than what results from an obvious construction of the words used in the paragraph itself. They accordingly suppose it must mean that the British may take our vessels in any case where they please, even where the articles would in no sense be contraband by the Law of Nations, and pay us for them.

This, he believed, was a full and a just statement of the objection. He said the gentleman from Pennsylvania [Mr. GALLATIN] had taken a most singular mode in construing this article in the Treaty. That gentleman began at the last end of the article, and traveled backwards to the first. He always had supposed the way to put a just construction on an instrument was, to begin

at the beginning and go through with it, in the manner it was written. If the latter mode was taken, there could not even be a question relating to this article. He did not believe it was the intention of the person who wrote that article in the Treaty to render any property liable to confiscation by the last paragraph. He believed it was designed merely to pursue the second, with some additional regulations, and the words, *nor her cargo*, before the words, *if not contraband*, as well as the words, *be confiscated*, which immediately succeeded them, appeared to him to have been rather incautiously used than with any positive design to render property liable to confiscation, which a preceding paragraph had expressly provided should not be confiscated, but only detained and paid for. But allowing the construction of the gentleman relative to the last paragraph to be just, yet it did not comprehend vessels which set out from home for the purpose of going to a blockaded port, and which had not been notified and turned away. These are, then, left for the second paragraph to operate upon; the second and last paragraphs would accordingly stand in this way. The second, by general terms, provides that vessels setting out from home, with a design to go to a blockaded port, and never having been notified and turned away, shall only be detained, and her cargo paid for. The last provides, that where she has been notified and turned away, and shall again attempt to enter, her cargo may be confiscated. There was, in his opinion, a good reason why goods should be confiscated in the last case, and not in the first. The intention, previously to having been notified and turned away, was a fact of all others the most difficult to prove, and liable to a great uncertainty, whereas, the attempt to enter after having been notified, left no room for doubt or uncertainty. It was highly proper, therefore, to be much more rigorous respecting the last than the first. But suppose the last paragraph directly repugnant to the second; the universal rule of construction relative to instruments like this is, that the last must be rejected. But if he was to admit further, that the preceding paragraph is to fall before a succeeding one, still would any gentleman pretend, that after they had proved this, it can have no effect, because opposed to another paragraph? They are, then, at liberty to put what construction upon it they please, and that they may construe it to mean directly opposite to the plain meaning of the words. This would be absurd. He then read the paragraph in question. He observed, that the paragraph provided for detaining such articles, and such only, as were contraband by the Laws of Nations, and how it could be construed to mean such as were not contraband by the Law of Nations, was to him astonishing. It was said, if the construction of the gentleman was not right, that the British nation will give it such construction. This objection was more important, as it had been urged against several other articles of the Treaty. Indeed, he found it common for gentlemen to contend for a certain construction, and unwilling at last to take on them-

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selves the responsibility of declaring it as their own opinion, that the construction they contended for was the true one; they conclude by saying, that perhaps the British may put such a construction upon it, as if we were not an independent nation, and were bound by whatever construction the British nation put upon it, right or wrong. He said he could not help their putting a false construction upon it, any more than we could their breaking it, and our remedy was the same in both cases. Besides, it was an objection, if well founded, which would prove that no Treaty could be made, for all Treaties were liable to misconstruction. But even on the gentleman's own construction of this article, he was surprised to hear it called a dereliction of our independence; for, suppose it is allowed them to take some of our provision vessels, and pay us for them, such a stipulation, he agreed, would be a very foolish one; but there was nothing like a dereliction of our own independence in it, and when gentlemen made use of such expressions, they must do it merely to alarm.

Another article in the Treaty was said to deprive us of important weapons of defence. This was the article relative to sequestration. He confessed, at first, that article struck him as objectionable; for, though he could not look forward to the period when it might be used, yet he did not like the idea of surrendering the right; but on more mature consideration, as the present Treaty settles almost all our disputes with that nation, and convinced that if they broke any part of the Treaty, we should be released from this, as well as every other article of it, he thought the right was not relinquished when it could be of any possible use.

The gentleman up yesterday [Mr. PRESTON] said it was contended that sequestration might yet be used in time of war; but that gentleman entirely misunderstood the argument. Nobody contended that war in itself would justify sequestration after having provided against it by Treaty: it was a breach in the Treaty by that nation, and that only, which would justify it. We might declare war with Great Britain without any pretence of a breach in the Treaty. For instance, we might do it on account of the West India trade. In this case, we should not be at liberty to sequester their debts; but, suppose they should refuse to deliver up the Western posts, would any body doubt our being as much at liberty from all the obligations enjoined by the Treaty, as if it had never been made. Every article in a Treaty was supposed to be made with a view to each other, and of course when one was broken, the whole must fall together. He read a passage from *Vattel* to support his doctrine. Mr. S. observed, that if his ideas were correct on that subject, he thought we had nothing to fear; for, if the British should faithfully observe all the parts of the present Treaty, it could not be possible for us ever to want to exercise the right of sequestration; and, if they did not, we still had the right as fully as if the Treaty had not been made. He should proceed no further in discussing the arti-

cles of the Treaty, they had been already very fully examined by other gentlemen; much more so than in his opinion was proper; for, if it was to be admitted that we had a right to look at the merits of a Treaty, still there could be no propriety in going into it in detail; and nothing, in his opinion, could justify the friends of the Treaty for adopting this mode of discussing the subject, except a wish to justify it against the slander of its enemies. If, indeed, we had been made by the Constitution a part of the Treaty-making power, it might have been different, but now, whatever we have to do with Treaties, it could not be this. He said that house had been a long time engaged in discussing an important Constitutional question, which arose on a motion to call on the PRESIDENT for certain papers. This motion was carried, the papers requested, and were refused by the PRESIDENT. The answer of the PRESIDENT was afterwards taken up by the House, and a resolution passed by them declaratory of their rights relative to Treaties. However he might think the House had done wrong in entering into those resolutions, it would be arrogance in him to undertake to convince any gentleman of his error, who had formed an opinion on that subject. He should not, therefore, attempt it; but he would venture to say, that there was not a majority of the House who had formed an opinion that the national faith had not yet been pledged.

He said, both the resolutions passed by the House were expressed in general terms, and, in the debate, two different grounds were taken, directly opposite in their nature, both leading, however, to the same conclusion, which was, that the House of Representatives had some degree of discretion on the merits of a Treaty, but to what degree, is a matter not determined by either of those resolutions. One ground of argument was, that whenever a Treaty interfered with objects of legislation, it was not binding until it received Legislative sanction. He said it was obvious, that whoever voted for those resolutions on this ground would consider the national faith as not yet pledged; for, if the contract was not complete, the national faith, it must be admitted, was not pledged. The other ground was, allowing the contract complete, and the national faith pledged, yet the Constitution, by giving them the power of making appropriations, or refusing to make them, had necessarily given them a check upon it. This check, it was contended, the House had over the other branches of Government, not only as to Treaties, but existing laws also, and obviously presupposed the Treaty to be complete, and the national faith pledged; for it would be idle and ridiculous to talk about checking a thing by withholding appropriations that did not exist, or which was incomplete; nor could there be any use for this boasted doctrine of checks, provided that House was really a part of the Treaty-making power. He said, what evinced most clearly the ground which many gentlemen went upon was, that, in the course of the former debate, it was urged, that, in a very extraordinary case, the

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House would be justified in doing almost anything to defeat its operation, and of course, they must have a right to look into its merits, so far as to see whether the present was not one of those extraordinary cases. Whoever voted for those resolutions on this ground, must have done it with a view of the national faith being pledged. How many gentlemen voted for them on the one, and how many on the other ground, was out of his power to determine; but he had reason to believe, most of the gentlemen in favor of the resolutions, adopted the last. He believed, if gentlemen would call to mind the principal arguments in support of the first ground, they would be convinced, that it must have been the latter on which they founded their opinions. He knew it had been said, that the Treaty-making power was, in its nature, subordinate to the Legislative, and therefore a Treaty could not bind the Legislature.

But, could not the Treaty-making power bind the nation as a body politic? and, if the nation was bound, must not the Legislature be also bound? Were they to be considered so far independent of the nation, as to be free from a contract, while the nation was bound? He said the Treaty-making power could pledge the national faith, and the Legislature was bound to regard their faith so pledged in all their Legislative acts. He was aware it had also been said, that there was an interference between the two powers, and as the Treaty power was general, the specific powers given to Congress must form an exception to the Treaty power. He confessed he was at a loss to understand what gentlemen meant by calling the powers given to Congress specific; they appeared to him equally general with the others. The power of forming Treaties was given generally to the PRESIDENT, with the advice of the Senate. The Legislative power was as generally given to Congress; and how two powers given generally, directly different in their natures, could form one an exception to the other, was out of his power to see. Had the power of forming Treaties of a particular kind been given to Congress? For instance, had the Constitution expressly given Congress the power of forming Treaties, regulating commerce, there would be some room to say, that this specific power must form an exception to the general power, given to the PRESIDENT, with the advice of the Senate. No such thing, however, was found in the Constitution, or even pretended to be contained in it. He had thus far turned their attention to the arguments on that subject, that gentlemen might form distinct ideas as to the real ground of their opinions, and he believed there was not a majority of the House who had, or would form an opinion, that the contract was incomplete, and the faith of the nation not pledged.

Indeed, the last resolution, though extremely ambiguous, appeared in a great measure to relinquish the first ground. He should say, notwithstanding the resolutions passed by the House, that in all their deliberations on the Treaty, it was to be considered as a contract completed, and pledge-

ing the national faith. In this, he flattered himself, he conformed to the opinions of at least a majority of the House. He would then appeal to gentlemen, and he wished them to put the question solemnly to themselves, whether the present was one of those extreme cases which would warrant them prostrating the national faith? He did not believe there were many gentlemen in that Committee who would say it was. Even the gentleman from Pennsylvania [Mr. GALLATIN] after enumerating all the bad things in the Treaty, and some of the good ones, struck a balance, and brought out the Western posts a clear saving in our favor. Suppose, after all, he was wrong as to the sense of the House, and that the national faith was not so pledged? Suppose that, in consequence of the new light shed upon our political system the present session, we have, for the first time, discovered the truth, and that this House is really a part of the Treaty-making power? In that case, what did genuine magnanimity and the honor of the nation require of them? Not, he presumed, to make use of their new discovery to ensnare the honor of the PRESIDENT and Senate, as well as disgrace the Government. It would rather dictate to them to say to the PRESIDENT and Senate, that in our opinion, you have hitherto misconstrued the Constitution in supposing you had the sole power of making Treaties; but as you have so understood the Constitution, and as the nations with whom you have contracted have been led to understand the subject in the same manner, and from the terms used in the Constitution, you are at least excusable from blame in so understanding it, we will ratify what you have hitherto done. He said this would be the language of the Journal, if they now, under all circumstances, passed the resolution on that table, having already entered on the Journals a resolution declaratory of their powers relative to Treaties.

Mr. S. said, he would suppose, for the sake of argument, that they had not only a power to participate in making Treaties, but that all sovereign power resided in them. He believed, this was as much as any gentleman would contend for; and suppose the PRESIDENT, with the advice of the Senate, had received their power from that House, in the room of having it from the people by their Constitution, in the same general terms in which it was now given, what in that case, would be their duty? He conceived, even in that view of the subject, though the PRESIDENT and Senate acted under the House as mere ministers, yet, while their power was so general and unlimited, and as it could not be pretended that they had departed from that power, the House would be bound in honor to ratify what they had done. Mr. S. said, it was a principle in the Law of Nations, that a Sovereign could not refuse with honor to ratify a Treaty, concluded upon by a Minister with full power, unless he could show that his Minister had deviated from his instructions.

To prove this position, he read some passages from *Vattel*. It had been said, that the British had made spoiliations on American property, since

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the execution of the Treaty; but that this had been done by the direction of the British Court was not pretended, or that application had been made for redress without effect, was not said. It was not in the power of the British Government, perhaps, effectually to prevent injuries being done to our vessels; but, if they did not, on application, make due compensation, he would be among the first to compel them to do it. He did not believe, in the present situation of that business, however, it would form any just excuse for a refusal to carry the Treaty into effect. The same might be said with respect to their impressing American seamen, except, indeed, where they claim them to be subjects of that nation; and, with respect to this description of seamen, should there ultimately be a misunderstanding between the two nations, the subject is open to further negotiation. The gentleman from Pennsylvania [Mr. GALLATIN] had discovered much sensibility relative to national honor. He professed to feel as sensibly for the honor of his country, as that, or any other gentleman; and, as he wished not to see it tarnished, he was desirous the Treaty should be carried into effect. We are, said he, an infant nation, just rising into the view of other nations, and an unblemished character was of the first consequence to us. He hoped they never should lose sight of it, and though he thought the interest and happiness of our citizens were likewise objects of very great magnitude, yet he was so thoroughly convinced that the path he had marked out was the only sure way of supporting their honor, that he thought he might safely trust the present decision, on the single question, whether that gentleman's plan, or his, would best secure it? He had already stated his plan. It was to bury in oblivion all past differences, by adopting the Treaty, and with respect to present or future differences he would let the British nation know, that we will be firm and independent. What was the gentleman's plan?

He would, at any rate, break the Treaty. This was a singular way of preserving national honor. He thought it more like prostrating, than supporting it. What would the gentleman do afterwards? He says he would do nothing. He would not go to war, nor would he do anything which would provoke them to war. He would sit down contented, without having possession of the Western posts, or any redress for the spoiliations on American vessels. This, to him, was also a very singular way of supporting national honor. Their two plans were, to be sure, totally different. The plan which he would chalk out was, to do justly and fairly as to the past, and, in future, assume a bold and manly tone, while that gentleman's plan was to be unjust and unfair, as to the past, and to be pusillanimous in future.

For himself, he would say that, if he really thought they had a Constitutional right to reject the Treaty, and could find just cause for rejecting it, and if the same was actually defeated, he would adopt a very different line of conduct. He would let the British know that America was not to be trifled with, by having, in the room of redress for

the grossest injuries, the most palpable impositions upon their Minister. If that gentleman would do no more on the subject than to defeat the Treaty, he confessed he was one who would. He would never sit down contented without redress for the injuries done to our commerce, and without possession of the posts. He said, he thought that gentleman had mistaken national will for national honor, or rather, the will of one branch of the Government. Indeed, he said, it would not be said to be the will of even one branch of the Government; it was the will of about one-half of one branch only.

He said, it must at least be admitted, that the true honor of the nation, was as well supported by giving effect to the Treaty, as by rejecting of it; and, as to its comporting with their best interest, there could not be a question, if no more was gained by it than the Western posts, which were admitted to be gained over and above any losses we might sustain by the Treaty, still, it was an object of great importance to the United States. There was no one class of citizens who would be in a worse situation, after adopting the Treaty, than they were now, and many of them would be in a much better one. The merchants certainly know their own interest, and their universal voice in its favor, was a sure proof of its being favorable to them. The mechanics and farmers, if not in a better situation by the Treaty, would certainly not be in a worse. It was true, they would all have to unite in the payment of debts for some of their fellow-citizens; but it was just they should be paid, and what we shall receive from the British for the injuries done our commerce, would much more than overbalance what we should have to pay.

He thought he had fully shown, that our honor and interest both united in requiring them to effectuate the Treaty; and had done this, without in the least calling into view the fatal consequences which will follow a rejection of it; or in the least attending to the happiness of the citizens.

But, said he, were we to add to all this, the scenes of misery and distress which would be the consequences of the rejection, we should be deterred from taking so rash a step; and were such scenes the effect of a mere dreaming conjecture? No; they were consequences which must follow; among which might be comprised the horrors of a war, on the one hand, with Britain, and on the other, with the savages; while internal commotions would, probably, be more dreadful than both.

He said, he did not believe Great Britain would immediately make war on us—no; we must make war on them. Turn to your citizens, said he, and see the prejudices which exist among them against the British nay, even in this House, you find it asserted to be a virtue to hate that people. It was a notorious fact, that there was a high dislike amongst almost all classes of Americans against the English, and when the causes of this dislike were examined, it was not to be wondered at, nor could it be blamed. It was, however, in his opinion, unfortunate that it should be so. The seeds of this hatred were sown in almost every Ameri-

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can breast in the late war, and they had since brought forth a plentiful increase.

At the close of the war, the British engaged in a war with another nation, who had assisted us in obtaining our independence, and who have been themselves engaged in a cause of liberty. This circumstance rekindled the flames of hatred against that Government, which, owing to various irritating circumstances, was now blazing in full force throughout the United States, and even in that House. Could it, then, be expected that we should sit down contented, if the Treaty was not carried into effect? Indeed, the same spirit which had opposed the Treaty, and which would lead to its rejection, would infallibly lead us to war; nor could he believe the gentleman from Pennsylvania had told us the whole of his plan. He should expect, very soon, to hear him advocating sequestration, or suspension of intercourse, or some other measure which would lead directly to war; and could we, said Mr. S., after a contest of a year or two with the British nation, treat with her? the President and Senate cannot treat with them, if once the present Treaty was defeated; and he would beg leave to say, that we never could stop, until we had either humbled the nation, so abhorrent to our feelings, or until we were humbled indeed. And we should not go into the war, united heart and hand; there was one end of the Union, he knew, would drag heavily into the war. There were two branches of the Government, and a considerable proportion of that House, indeed, who had been struggling to support their neutrality and peace.

Mr. S. concluded, by saying—if we carry the Treaty into effect, we shall secure a continuation of our unexampled prosperity, peace, and happiness; but, if we reject it, the avenues to national misery will be opened innumerable.

Mr. DAYTON (the Speaker) declared that he did by no means intend to follow the gentlemen who had conceived it advisable to enter into a discussion of the merits of the Treaty, article by article.

To those, he said, who regarded this second Treaty with Great Britain with disagreeable sensations—to those who believed that it did not contain in it such terms as the United States had reason to expect, and even a right to demand—to all those whose indignation had been excited at the unwarrantable outrages committed by that nation upon the rights of our neutral Powers, who had seen their high-handed acts with astonishment, and the whole conduct of their administration towards this country with abhorrence—to those whose attachment for the French, nobly struggling for their liberties, was sincere, and who ardently wished that their revolution might terminate in the establishment of a good and stable Government:—to all of this description, he could, with propriety address himself, and say, that he harmonized with them in opinion, and that his feelings were in perfect unison with theirs. But if, he said, there should be found in that assembly one member, whose affection for any other nation exceeded that which he entertained for this, whose

Representative he was—if there could even be found a single man whose hatred to any other country was greater than his love for America—him, he should consider as his enemy, hostile to the interests of the people who sent him there, utterly unqualified to judge rightly of their concerns, and a betrayer of the trust reposed in him. But, Mr. D. said, he could not believe it possible, that there were any such amongst them, and he was convinced that every one must see and feel the necessity of divesting himself of all his hatred, all his prejudices, and even all attachments that were in the least degree inconsistent with an unbiassed deliberation and decision. The good and the prosperity of the people of the United States ought to be the primary object. It was that alone which their Representatives were delegated and commissioned more immediately to promote, and who would deny that it was intimately connected with, and involved in the vote they were about to give?

That the defects of this instrument of compact with Britain greatly exceeded its merits, was a truth which was strongly impressed upon his mind, long before he had heard the reasoning of the gentleman from Virginia, [Mr. MADISON,] who had opened the debate. Although that gentleman had sketched its deformities in strong colors, and had in some instances, perhaps, exaggerated them; yet, Mr. D. said, he should not have contested the justice of the picture he had exhibited, if he had, at the same time, presented to their view, in true and faithful coloring, the other side of it also. Yet, this was surely necessary in order to enable them to form a right judgment. That member had declared that the House were now called upon to approve the Treaty, but Mr. D. was far from believing such a declaration warranted by the language or nature of the propositions on the table, to which all might assent, without pledging themselves to the approvers of the instrument itself.

So firmly convinced was he of this, that, if he could subscribe to the truth and force of every objection that had been urged by that gentleman, he should, nevertheless, by no means conclude with him, that the House ought to withhold the appropriations, but, on the contrary, they ought to grant them. This would be his course of conduct, because difficulties and inconveniences alone presented themselves to their view and choice, and he thought he should act unfaithfully, if he endeavored to shun those on the one side only without regarding the wide scene of dangers into which he might plunge his country on the other. What would be thought of that man, who, because the road he was traveling proved to be an uneven and rough one, should considerably betake himself to an opposite path without exploring the precipice that awaited him there? In the individual it would be deemed an evidence of madness, and such heedless conduct in that House could not escape the imputation of blindness. Under impressions of this sort, as to the importance of the vote he was about to give, he conceived himself bound to extend his views beyond the mere in-

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trinsic merits of the Treaty, and to estimate the evils which must flow from a rejection of it. What, he asked, were these? Would a foreign war, and the dissolution of the Government be the certain fruits of a rejection, as had been represented by some gentlemen whose opinions he respected? These would certainly be amongst the most dreadful calamities which could befall a country, and, especially, one made up of Confederacies like this; and although he did not think them probable; yet, they must be admitted to be possible, and as such, justify those who allow them to influence their minds. But he appealed to those gentlemen who seemed to treat such apprehensions as perfectly chimerical, whether there might not be others, which, though less alarming than a foreign war and dissolution of the Union, would yet exceed—nay, very far exceed, those which are to follow the operation of the Treaty. The first fruit of a rejection would be, Mr. D. said, a claim from the merchants who had suffered by spoliations, to be fully indemnified from the Treasury. He called upon the members who, like himself, represented agricultural States: and he called, also, upon those who represented the landed and agricultural interests in the commercial States, to declare, whether they were prepared to burden their constituents with a tax of five millions of dollars to be thus applied?

He did not fear that he should be charged, as others had been, with sounding a false alarm. A proposition to that effect had already been laid out on the table, and, what was not a little singular, it was founded on a presumption that the Treaty was to be annulled by a vote of the House, and was to derive its support from that very circumstance. Mr. D. thought it his duty to remind gentlemen of the doctrine uttered by the member from New York, [Mr. LIVINGSTON,] when he moved it, as well as of the extent of the principle contained in it. It is an established principle, said the mover, that protection is equally due to the person and property of all citizens, and that where the Government fails to protect, it is bound to indemnify for all the losses that may be sustained by every individual in consequence of such failure. They were, therefore, Mr. D. said, if they rejected the Treaty, to be immediately called upon to recognise a principle which would not only pledge them to tax their fellow-citizens for the five millions, at which the British spoliations were estimated, but, also, to make compensation for every depredation that might hereafter be made upon their trade; nay, more, for every injury that any American citizen might suffer through want of protection. He was aware that he might be told that the resolution embraced only merchants who had suffered, but he contended that the principle, when established, must extend to all; for he challenged any gentleman to show what better title they who inhabited the frontier next the sea, had to claim Governmental protection and indemnification, than they who inhabited a frontier on the land side? If, therefore, they were determined to compensate from the Treasury the merchant for his plundered cargo,

they were equally bound to pay the frontier settler for his stolen horse; and there would be no bounds to such claims, or means to satisfy them.

Yet, this very thing they would be called upon to do the next moment after they voted not to grant the necessary appropriations for carrying the British Treaty into effect. But the evils flowing from a rejection would not end here. All kinds of property lowered in value; ship building at a stand; commerce and navigation insecure and harrassed: the fruits of the earth, the produce of the farmer's toil, reduced one-third in price, and almost without a market; public and private credit tottering; these, all these, would swell the disastrous catalogue. The effects of a rejection would operate like a subtle poison, which, though immediately applied to only one part, would quickly insinuate itself into the system, and affect the whole mass. Although, in this instance, the first shock would fall on commerce, yet it would, through the means of this powerful conductor, be communicated, with an electrical quickness, to the dearest and best interests of this country. It was possible, Mr. D. said, that there might be one exception—manufactures might not be immediately and generally injured; but if they should flourish, it would be upon the ruins of commerce, the decay of navigation and ship building, the poverty of the planter and farmer, and the wreck of public faith and private credit. Another evil certainly flowing from rejection, would be, he said, the loss of the Indian trade, which had been stated by two gentlemen from New York, and one from South Carolina, who appeared to be well acquainted with the subject, as extremely profitable and important.

An Indian war might, also, be calculated upon as inevitable, and the consequent expenditure of fourteen hundred thousand dollars annually; but, in carrying the Treaty into effect, and possessing the posts, with the troops, they should be free from any danger of a serious rupture with the savages, and save the most of that money, together with the lives of many very valuable citizens. Those posts, he said, could alone insure a permanent peace with the savages, or, at least, would enable this country to repress hostility with little trouble or expense, if ever it should again threaten. Their importance had, it was true, been questioned by one or two gentlemen, but it had been vindicated, and they had been answered by a gentleman from Massachusetts, [Mr. AMES,] in a strain of eloquence never exceeded in that House, which affected every one who heard, and, he believed, had convinced most of those who listened to him.

It had been asked what would be the conduct of Britain, when they should learn that the House of Representatives had refused to make appropriations for the Treaty. He was disposed to think that they would not consider it a cause, or make it a pretext, for war. Having in their hands the fur trade, the Western posts, and about five millions of dollars, of which they had despoiled the people of these States, they might probably sit down contented with the spoils they had made, after this Government had, by its own act, dis-

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solved the stipulations they had entered into to make restitution and compensation. But what, in this state of things, would restrain their piratical cruisers in the West Indies? They, whether hoping that a war would be the consequence of annulling the Treaty, or that, as the two nations were no longer under that tie, they might again rob with impunity; and would probably seize on American vessels wherever they could meet them, and carry them into those ports in which corrupt Judges stood ready to condemn them.

So far as this question respected a dissolution of the present Government, it was certainly a very delicate one. Important as the subject under debate unquestionably was, he was free to declare it to be his opinion that no decision, however unfavorable it might seem, could justify, or would produce a separation of the States. He lamented that it had been conceived or mentioned by any one, for he should, whilst he had strength resist such an event as the most fatal that could befall his country, and would cling to the Union as the rock of their political salvation. But he would not say, nor would any one else seriously say, that there was no room to apprehend that a rejection might produce suspicions, jealousies, distrusts, and discord between the one part of the Union and the other, and such a general fermentation in the public mind as never before prevailed.

He could not here refrain from making a serious appeal to the candor and good sense of the gentleman from Virginia. Having served with him many years in public life—in the Old Congress, under the Confederation, in the Federal Convention, and for nearly six years under the present form of Government, he had, upon many and various occasions witnessed the display of his superior talents, and the efforts of his patriotism, and derived from thence a conviction that, as at no former moment, so neither at the present, could he appeal to those qualities in that gentleman in vain. Mr. D. requested him to turn his attention to the last article of the British Treaty, and particularly that part of it which is in the words following, viz:

"This Treaty, when the same shall have been ratified by his Majesty and by the President of the United States, by and with the advice and consent of their Senate, and the respective ratifications mutually exchanged, shall be binding and obligatory on His Majesty and on the said States, and shall be by them respectively executed and observed with punctuality and the most sincere regard to good faith," &c.

He called upon the gentleman from Virginia to show in what line or word of it the PRESIDENT had exceeded his authority, or, if that was not pretended, and he believed it was not by any one, he wished that gentleman to reflect for a moment how it was possible to refuse appropriations, and yet preserve inviolate the faith of this country, so solemnly pledged in that article.

Could that member conceive a more embarrassing situation than that in which the measures contemplated by him would place the first magistrate of this country? He had said, in his speech, that if this Treaty was rejected the PRESIDENT

could, and doubtless would, commence the negotiations anew with Great Britain in order to obtain alterations and modifications of the objectionable parts, but an attentive perusal of the article which had been quoted, must convince him and every other person that the PRESIDENT must consider the Treaty as valid and binding, even though the appropriations were refused, and consequently instead of making a new compact, must, if he preserved that character for firmness and consistency which he had ever supported, protest against the usurpation of power on the part of the House of Representatives.

But let it be supposed for a moment that the PRESIDENT could condescend to send out another Envoy upon such an errand; had the gentleman revolved in his mind what language must accompany the mission? The new agent must introduce himself to the Court of London by declaring that he came to frame a new Treaty instead of the one which though lately made by the two branches of Government who were then conceived to be the constituted authorities, had been more lately broken by the third branch. That the PRESIDENT had believed the approbation of the Senate followed by his own ratification to be fully sufficient to render the compact valid and binding, but that the House of Representatives had taken a new view and sense of his and their powers, had conceived their concurrence necessary to give it binding force, and convinced him that his construction of the Constitution had been erroneous, and had insisted upon his sending this extraordinary Envoy to practise upon the new lessons they had taught him.

Were it possible for a man acquainted as the gentleman from Virginia is, with the temper and character of Courts, to conceive that this messenger, though clothed with diplomatic sanction, could be otherwise received and treated than with contempt? Would he not be told to go back to his countrymen, and desire them to settle among themselves where they had deposited this power of Treaty making? Would he not be told that if it resided in the PRESIDENT with the advice and consent of the Senate, as they had been taught to believe, then there was one already formed which the British Government were ready, and the United States bound to fulfil, but that if the House of Representatives were in future to participate in this power, he must, if he returned to Great Britain, bring not only his own credentials from the PRESIDENT, but also authenticated copies of the powers from the House to the PRESIDENT himself?

The member from Pennsylvania, [Mr. GALLATIN] had asserted there was as weighty a responsibility on the one side as on the other. This, Mr. D. said, he altogether denied. All must admit that the PRESIDENT and Senate would at least share it with those members who should vote for carrying the Treaty into effect, and they would have to justify them in addition to the important objects of the settlement of differences, the compensation for losses, the possession of the posts, &c., the plea of plighted faith. But they who

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should vote against the necessary provision in that House, would thereby take upon themselves alone all the consequences of the rejection. Could they lean for support upon even the ten dissenting Senators? No! For the instrument when under consideration of the Senate was an inchoate act. No faith was then pledged, its merits alone were the subject of consideration, and it might then have been rejected without wounding in the least degree the national honor. Could they lean upon those citizens, numerous as they were, who early expressed disapprobation? No! For this was generally done to arrest or to prevent ratification, and now since it was ratified, the opposition of far the greater part of this description was withdrawn and the names of very many of them were signed to the numerous petitions laying upon the table, praying that the Treaty might be carried into effect. They were, in short, about to take upon themselves a weightier responsibility than had ever before been encountered by any majority since the formation of the Government. Nor would they free themselves from this responsibility if they should first refuse and afterwards resolve to appropriate. To reject the appropriation by a vote, though it were to continue only for a moment, would be to inflict such a deadly wound upon the Constitution and honor of this country, as no subsequent vote or conduct could ever heal—they were considerations far too sacred thus to be sported with, and he earnestly entreated gentlemen to consider well the importance of the first step they were about to take, which if wrong could never effectually be trodden back.

Mr. D. concluded with observing that, although he was not pleased with many parts of the Treaty—although he had never felt any strong predilection for an intimate connexion with Britain—although he had never seen their encroachments on the rights, nor their depredations upon the property of American citizens with an indulgent eye, or in the temper of tame submission, and although he had long ceased to entertain any respect for the negotiator, yet he should vote for the resolution, because he loved his country, and to that love would sacrifice every resentment, every prejudice, every personal consideration. He should vote to carry the Treaty into effect with good faith, because he sincerely believed that the interests of his fellow-citizens would be much more promoted by that, than by the opposite line of conduct.

He had said, "with good faith," and he hoped in thus repeating the expression he should not give offence to the Committee, nor to the member from Pennsylvania, at whose instance those words were stricken out of the resolution. They were however, words of solemn import, and although that member declared he did not understand them, yet they were well understood by the people of the United States. They were not ignorant of the solemn obligations thereby imposed upon them, and their Representatives. They knew that their faith when pledged could never be broken, without injuring their interests. They would judge when it was fairly pledged. They would know when it was wantonly violated, and they

would determine whether they would permit a violation to be made with impunity.

Mr. CHRISTIE said, the first time he read the Treaty he believed it to be a bad bargain; he continued to think so, though he did not think it pregnant with all the evils which had been ascribed to it. He thought all that had been urged about war, and a dissolution of Government, if the Treaty was not carried into effect, something like the tale of "Rawhead and Bloodybones," to frighten children. But, though he thought the Treaty a bad one, his constituents were desirous it should be carried into effect, and he found himself bound to lay aside his own opinion, and act according to their will. He should therefore vote for carrying it into effect.

The question was then put on the resolution, which is in substance as follows:

Resolved That it is expedient to make the necessary appropriations for carrying the Treaty with Great Britain into effect.

The House divided, forty-nine for the resolution, forty-nine against it.

It remained for the Chairman, Mr. MUXLEBERG, to decide.

He said, he did not feel satisfied with the resolution as it now stood; he should, however, vote for it, that it might go to the House and there be modified.

The resolution was consequently agreed to, and reported to the House.

[The following statement will show the true sense of the House as to the expediency of carrying the British Treaty into effect.

Forty-nine voted for this expediency.

Forty-nine against it.

The Chairman, Mr. MUXLEBERG, to give an opportunity further to consider the resolution, voted for it.

Mr. PATTON from Delaware was ill, and was necessarily absent. It is, however, well understood, that he is opposed to the Treaty.

Mr. VARNUM was accidentally absent. He is no friend to the Treaty.

MESSRS. FREEMAN, SHERBURNE, and VAN CORTLANDT are absent on leave.

Mr. DUVAL has resigned, and his successor has not yet taken his seat.

From which it is evident that there is an actual majority of the House against the expediency of carrying the Treaty into execution.]

When the resolution was reported to the House, the question on it was called for, and the yeas and nays.

Mr. GILES wished some modification to be made in the resolution before them, or an additional one introduced so as to express the sense of the House upon the Treaty; he said it was observable that several gentlemen voted for the present resolution who thought the Treaty a bad one. He was not prepared at present with a proper resolution. The reason why he thought some qualification necessary was, that as a part of the Treaty was only to continue in effect for two years, and at the end of that time a fresh negotiation would probably take place, if the sense of that House upon the Treaty

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was known to the PRESIDENT, it might in some degree operate with him in a renewal of that part of the Treaty.

Mr. JACKSON wished, as he discovered some of the members of the House were at present absent, and as the yeas and nays were to be taken upon the question, that a call of the House should be made previous to the taking of it. He said, he should vote against the Treaty, and should be able to give satisfactory reasons to his constituents for so doing; he wished therefore, that on this important decision, the name of every member should appear on the list of yeas and nays. He hoped, therefore, the question would be postponed for the purpose.

Mr. MACON also wished the question to be postponed. He said he had doubts yet on his mind, respecting the construction of the 9th article, relative to the holding of lands, and if the construction which some gentlemen thought it would bear was the true construction, this question would be of greater importance to the State of North Carolina than the Declaration of Independence itself. He should speak within bounds if he was to say one half of the lands in that State would be affected by that construction.

Mr. HOLLAND and Mr. GILLESPIE also expressed their doubts on this head.

Mr. SWANWICK hoped the question would be put off till Monday; in the mean time gentlemen might have an opportunity of making up their minds on the subject so as to harmonize together.

Mr. S. SMITH said it would be imprudent and improper to force the decision of the question at present. He hoped it would not be insisted upon.

Mr. WILLIAMS said, any delay in their decision would add to the loss already sustained by the farmers and merchants in the sale of agricultural production. For the sake of accommodation, he would, however, consent to a postponement of the question till to-morrow.

Mr. TRACY hoped the question might be postponed, if gentlemen wished it, till to-morrow or Monday.

Mr. HILLHOUSE hoped the question would be postponed till Monday, when he hoped more unanimity would prevail in the decision.

MESSRS. BOURNE, CHRISTIE, and COOPER, wished the adjournment to be till to-morrow only.

The question was put and carried for to-morrow.

Mr. GILLESPIE then moved that a call of the House be made for to-morrow at 12 o'clock; which was agreed to.

SATURDAY, April 30.

A bill for continuing in force an act in the State of Maryland, appointing a Health Officer for the port of Baltimore, was read a third time and passed.

The House took up the consideration of the amendments yesterday made in the Committee of the Whole in the bill for the Military Establishment; which, being agreed to, it was ordered to be engrossed for a third reading.

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EXECUTION OF BRITISH TREATY.

The House then took up the resolution yesterday passed in a Committee of the Whole, for carrying into effect the Treaty lately negotiated with Great Britain; when

Mr. DEARBORN said, as it appeared that a majority of that House was in favor of carrying into effect the British Treaty, notwithstanding several of those gentlemen who had declared their intention of voting for it, had declared they thought it a bad Treaty, and as he wished to see the opinion the House entertained of the Treaty entered upon their Journals, he took the liberty of proposing an amendment to the resolution in the following words:

"Resolved, That, although in the opinion of this House the Treaty is highly objectionable, and may prove injurious to the United States, yet, considering all the circumstances relating thereto, and particularly, that the last eighteen articles are to continue in force only during the present war, and two years thereafter, and confiding also in the efficacy of measures that may be taken for bringing about a discontinuance of the violations committed on our neutral rights, in regard to our vessels and seamen, therefore, &c."

Mr. COIT hoped the yeas and nays would be taken upon the question; which was agreed to.

Mr. GOODHUE hoped the House would not agree to the resolution; he, for one, would never agree to it.

Mr. SWANWICK hoped the amendment would be agreed to; for whatever some gentlemen's opinion might be with respect to the propriety of carrying the Treaty into effect, very few thought it a good Treaty. An amendment, therefore, declaring the motives which actuated that House in passing the resolution for carrying the Treaty into effect was very desirable, it would induce some gentlemen to vote for it, who would otherwise vote against it and it ought not to excite objection. He appealed to the recollection of gentlemen, the arguments which had been used to enforce the necessity of the appropriations, which laid great stress upon the shortness of time which the most objectionable part of the Treaty was to be in force. He hoped, therefore, these arguments would not be objected to in the form of a resolution.

There might, indeed, be gentlemen who thought the Treaty perfect in every part, a very paragon; these, of course, would object to this amendment, and would vote against it. It might be said this amendment would convey an indirect censure on the other branches of Government; but he did not think so. That the Treaty was highly objectionable was shown by the decision of the Committee of the Whole yesterday, when the Chairman, with the hope of some modification taking place in the resolution, decided the vote in its favor. He hoped the proposed modification would not therefore be objected to. There was another important observation, which was the confidence expressed in the PRESIDENT's taking measures to prevent future spoliations of property and impressment of seamen. Mr. S. said, if the amend-

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ment was adopted, it might lead him finally to vote for the Treaty, which he otherwise should not do.

Mr. WILLIAMS hoped that other gentlemen might be allowed to be consistent in their vote as well as the gentleman last up. He voted yesterday in the majority for the resolution in its present form, and he did not wish to vote for it in any other. Why did not gentlemen yesterday move their modification? To pass the modification to day would be undoing what was done yesterday.

Mr. HULLHOUSE said, when he prepared the resolution on the table, he thought he had done it in such general terms that every gentleman might vote for it, without expressing a sentiment contrary to what he entertained respecting the Treaty. The amendment proposed he thought very objectionable. It appeared as if it was intended to force gentlemen to vote against carrying the Treaty into effect, rather than vote for the Treaty. For his own part, he could not vote for it, as it would be in direct contradiction to the sentiments which he had before expressed. He thought candor itself could not expect gentlemen who approved of the Treaty to vote for the amendment. It was also a rule to avoid expressing particular sentiments in resolutions of this kind. One part of the proposition, if it was brought forward separately, would be assented to generally, respecting the confidence placed in the PRESIDENT, with respect to future spoliations and impressments of seamen. In this proposition, it was said, the Treaty was injurious; he did not believe it was so. He believed it would be beneficial to the United States. It would not only be agreeing to an opinion which was contrary to the sentiments of gentlemen, but it would be passing a censure on the other branches of Government. Gentlemen were not required to say it was a good Treaty, and he hoped no one would be forced to say it was a bad one.

[The SPEAKER informed the House that it was then twelve o'clock, and as they had yesterday ordered that there should be a call of the House to-day at that hour, he should direct the Clerk to make the call. It was accordingly done. Messrs. BRENT, HARPER, and PATTON were absent. The two former came to the House soon after the call, and, on making apologies, were excused. Mr. PATTON was indisposed.]

Mr. GREGG said he should vote for the resolution in its present state. He did so, not because he thought the Treaty a good one, but because he believed the interest of the United States would be promoted by making the necessary appropriations, and because he was apprehensive worse consequences might arise from defeating it than from carrying it into effect.

Mr. MOORE considered himself as called upon to choose between two evils. He considered the Treaty to be bad. On the other hand, he was apprehensive that evils might arise, if it was not carried into effect, out of the control of that House. He had resolved not to vote for the resolution on the table; but he felt unwilling to take upon himself the responsibility of rejecting the Treaty

which had been sanctioned by the PRESIDENT and Senate. In deciding upon the amendment proposed, he wished the sense of the House to be taken; and if he considered that a single individual would be influenced to vote against the resolution who would otherwise have voted for it, he should wish them to be separated. It was his opinion the Treaty was a bad one, and he believed it was the opinion of a decided majority of that House. He wished the resolution to be so amended that the Treaty might go into effect by a considerable majority, as it would tend to lessen the irritation which had been raised respecting it.

If a majority of the House thought the Treaty a bad one, they had a right to say so, and let the responsibility rest where it ought to rest.

Mr. SINGREAVES said the gentleman who introduced this resolution said he did it with a view to accommodation. If so, the mover and supporters of it would not wish to lay gentlemen under an obligation of doing what was disagreeable to them. Those gentlemen were willing, it seemed, to vote for a resolution for carrying the Treaty into effect, but wished at the same time to divest themselves of responsibility. Mr. S. said he had no objection to their expressing their own opinions; they were not his. Therefore, if a fair representation of opinion was to be given, the two propositions should be separated. With respect to that part of the resolution expressing hopes in future negotiation, he had no objection, but to the other he could not agree. On this subject he was so decided, that he avowed he would rather lose the Treaty than that the sentiments in the amendment should go out as his act. He hoped gentlemen would consent to let them vote as they thought right. Let gentlemen throw their ideas into a distinct proposition, the responsibility would then be rightly placed; their constituents would be informed of their opinions, the honor of the nation would be saved, and the divisions which had distracted their country would be healed.

Mr. DEARBORN said, in offering the amendment which he had proposed, he had no intention of taking any thing like an unfair advantage, or of producing what might be thought uncandid or unfair. His own sentiments relative to the Treaty were such as would prevent his consenting to do any thing to carry it into effect, unless with such a provision as he had brought forward. It appeared to him of such a nature, that he was not sure that he could bring his mind to vote to carry it into effect at all. He had supposed there could be nothing improper in taking the opinion of the House relative to the thing itself. If it might be presumed that there were but few gentlemen in that House who thought the Treaty a good one, he, indeed, thought there were none of that opinion, until then, though some gentlemen had praised it in their speeches, but which he had merely considered as adding weight to their arguments, he believed such an amendment was desirable.

As he therefore took it for granted that a considerable majority of the House were of the same opinion with himself, he saw no impropriety in having that opinion expressed. The propositions

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would not interfere with any bill which might be brought in, and gentlemen would have the discretion to vote for it or not. If a majority of the House thought differently from him, and chose to negative the amendment, he should be satisfied. Until he heard something further on the business, to convince him of the impropriety of doing so, he should wish to see a decision of the House upon the proposition as he had offered it.

Mr. HARPER said he was of the number who thought the measure of passing the resolution on the table a very expedient one; but whilst this was his opinion, he knew there were many, both within and without their walls, of a different opinion. He had no objection to gentlemen's expressing their opinions, but he wished also to be at liberty to express his. He should, therefore, propose that the mover should form his resolution as a preamble. This would answer the purpose of the gentleman from Virginia, [Mr. MOORE.]

He said, when it was so formed, every one would have an opportunity of voting for it, and, if negative, the resolution would stand as before. He hoped, therefore, the proposal would be agreed to.

Mr. DEARBORN said he considered his motion in the nature of a preamble; and he had no objection to any alteration that would make it more properly so.

Mr. KITTERA appealed to the candor of the gentleman who brought forward the amendment, with respect to the propriety of making his proposition a distinct one. He thought it would be extremely improper to pass a resolution which should say, "We pass this law, though we believe it to be a very bad one." He thought it also directly charging another branch of the Government with improper conduct.

Mr. NICHOLAS had no objection to the amendment being inserted by way of preamble. He urged the propriety of the opinions of members being fairly taken on this important business.

Mr. GREGG wished to offer an amendment, as a substitute to that before the Committee. It was, in substance, as follows: "*Resolved*, That under a consideration of existing circumstances, without reference to the merits or demerits of the Treaty, and in confidence that measures will be taken by the Executive to maintain our neutral rights, it is expedient," &c.

This was declared out of order until the amendment was decided on.

Mr. VENABLE had no objection to the propositions being taken separately, as gentlemen would be then at liberty to vote as they pleased. He conceived there were gentlemen who would vote for the proposition with the amendment, who would not vote for it without it. He did not know that any amendment would reconcile the resolution to him; for, though he should vote for the amendment, he would not bind himself to vote for carrying into effect the Treaty.

Mr. MURRAY said, if this measure was pursued, the Treaty would be defeated. The amendment proposed, implied that the friends of the Treaty

would vote for it in that way, rather than lose it. Were they then to vote for the resolution, loaded with odium, or lose the Treaty? These steps, he said, all led to one issue—a rejection of the Treaty. The gentleman from Virginia last up, had declared that, though he should vote for the amendment, he would not be bound to vote for carrying the Treaty into effect. He believed most of those gentlemen who would vote for the amendment, would vote against the original resolution; and that it was introduced as a barrier betwixt the Treaty and those who were friendly to it. He would agree to or reject the original resolution; for he, for one, would declare he would not vote for the resolution so loaded. If the Treaty was to be so carried into effect, it would poison its vitals. The Treaty was the law of the land; it also held up a relation between two nations. It was not merely the delivery of the posts, or compensation for spoiliations, that the Treaty embraced; such a resolution would spread a general alloy of bad opinion, which would eventually bring the two nations to the sword. The Treaty, so loaded, would not have the desired effect; for instead of allaying the spirit of enmity between the two countries, it would serve to keep it alive. It was the interest of both countries to be at peace, and to have a good understanding with each other. Were the amendment proposed to be adopted, it would keep up that animosity which had been raised against the President for having executed the Treaty. Small were his means, said Mr. M., of settling disputes with foreign nations. Without Navy, without Army—nothing but plain reason with which to meet a powerful Court—

[Mr. MACON wished to know of the SPEAKER whether Mr. M. was in order? The SPEAKER answered in the affirmative.]

Mr. MURRAY said he had not spoken on the subject before. He was stating that the President was armed only with reason; he was stripped of all the symbols of power, and if the Treaty before them was carried into effect, with such a clog as the amendment proposed, he would be debilitated indeed. Their Executive had, in his opinion, done great things, and what would have covered any European Minister with untarnished laurels, by means of reason and policy; for, however wickedly Courts act, they calculate upon the force of the Powers with whom they treat. When a Minister goes to negotiate, they inquire into the naval and military force of his country, their appropriations for the army and navy, &c., &c. The Envoy of the United States would be a blank upon such an occasion. What was their interest, then? It was to give energy to their Government. Should they then pass the law in such a manner as almost to warrant the people in resisting it? The only thing which remained for them to do, was, not only to carry the Treaty into effect, but to carry it into effect with good faith. The object was not merely the posts—it was a conciliation of the differences long existing between the two nations; and it was their duty to execute it so as to produce the greatest advantage; whereas, if they were to agree to the amendment proposed, so co-

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covered with odium, it would weaken the power of the Executive, already too feeble.

Mr. S. SMITH said he had never seen any cause of gloom. He never doubted that the members of that House would come to right conclusions. They did right yesterday, and he was not afraid of their doing wrong to-day. In their decision yesterday, the Chairman had doubts. He decided in favor of the resolution, in hopes of its undergoing some modification—that modification was now brought forward. It did not entirely please him; but he thought it might be so amended as to please every one. He moved that the words “and may prove injurious to the United States,” be struck out. Consented to.

Mr. MUHLBERG said, when he gave his vote yesterday, he did it in the hope of a modification of the resolution taking place in the House. A modification was now brought forward, and he was ready to vote for some such modification. Whilst he made this declaration, he must add, that he was willing also to vote for the original resolution. He wished the sense of the House to be taken upon the two propositions separately.

Mr. DEARBORN consented to the propositions being taken separately.

Mr. S. SMITH moved to strike out the word “highly,” so as to read *objectionable*, instead of “highly objectionable.”

The sense of the House was taken, when there were 48 for the striking out, and 48 against it. The SPEAKER gave his vote in the affirmative.

Mr. SEDGWICK said, he had not troubled the House since the resolution was first brought forward. He came prepared, on a particular day, to have taken an extensive view of the subject; to have attempted to show that the Treaty could be defended on its merits; that, on the most cool deliberation, he found the Treaty not only unobjectionable, but to contain more advantages than any, than all the Treaties ever formed by this country. He then resigned to another gentleman the right he had of addressing the Committee, and he had now altogether abandoned his intention of supporting by argument his opinions, and he did not intend (if it would be in order, which it would not) to go into the discussion at present. He wished not to consume the time of the House, because, if the Treaty was to go into effect, it was high time it should be done; it was also high time that the people of this country should know its fate. He had intended to have attempted to prove that this Treaty drew the differences subsisting between the two countries to a happy conclusion; that, besides redressing the injuries of which they had a right to complain, it was of a nature beneficial to the essential interests of the United States; but, if he had thought differently, he would not have agreed to the proposition now brought forward. What was the intention of the mover? He told them it was for harmony; it was to reconcile the opinions of gentlemen with their vote; it was for unanimity. He asked that gentlemen, and those who supported the proposition, whether they could possibly conceive, after the language held on that floor, that there could

be so complete a departure from their principles, as to agree to that amendment? What was the consequence? Were they to make harmony by declaring war? By declaring the other branches of the Government to have ratified an objectionable instrument? Was it possible that either harmony in the other branches of Government, or in the people, should be advanced by a declaration such as this? And where was the occasion for it? From the promulgation of this obnoxious Treaty to the present time, had not the presses teemed with publications on this subject? Since the debates had taken place, every gentleman had brought forward his objections at large. The papers of this city had published the arguments for and against the question. The whole lay before an intelligent public, and, so far as respects personal responsibility, the people will decide between the contrary opinions. He begged gentlemen to recollect that the PRESIDENT had done no more than he was authorized to do by the people of this country. Had he not a right to negotiate? A negotiation took place; the effects of it had been submitted to that body, to whom the people directed it should be submitted. The Senate had advised the ratification, and the PRESIDENT had ratified and promulgated it. Had they exceeded their powers? Certainly not. What, then, was the consequence of the declaration now proposed? He asked gentlemen who were disposed to advocate the propositions before them, to consider them as doing an act which they were authorized to perform—a Constitutional act, for which they were appointed. If they passed the present resolution, what language would be strong enough to reprobate the censure which would be cast upon the other branches of Government? Had the PRESIDENT and Senate done more; and if no more than their duty, who had given them the authority to comment upon their acts? The proposed amendment declared that they had done the thing that was wrong. Would they bear, ought they to bear this? They ought not to bear it.

He requested that gentlemen to reverse the case. Suppose the House had, in pursuance of the authority delegated to them by the Constitution, done an act confessedly within the limits of that authority, (as it was agreed was the case in the present instance in the conduct of the PRESIDENT and Senate,) and any other branch of the Government, and particularly the other branch of the Legislature, should undertake to comment on such acts of the House, to declare to their constituents and to the world that our decisions were injurious or objectionable? The sentiments which such conduct on the part of the Senate, would excite in the House, would be strong, unanimous, and every gentlemen then would feel them to be just. The rights of the Senate, in this instance, were the same: they were equally independent, and neither the injury nor the resentment would be lesser. He hoped, on temperate reflection, a majority would not invade those rights in another department, which, as their own, they would and ought to defend.

In this view of the subject, when no good end

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was proposed, why was the declaration to be made? Was it to keep alive the misunderstanding which had already taken place between the different branches of Government? Certainly that was not a desirable thing. To say these laws were made from circumstances of imperious necessity, as had been observed by his friend from Pennsylvania, [Mr. KITTERA,] was not the best mode of procuring submission and respect to them. No instance could be produced in which such a conduct had been adopted, and he hoped it would not now be sanctioned.

Mr. KITCHELL said, he should vote against the proposition now brought forward, because he thought it wrong to hold up an idea which would have a tendency to weaken the Government. He looked upon it as injurious. The people would judge upon the Treaty from the instrument itself and what had been said of it. They ought never to alarm the people unnecessarily. It was not from any fear of going to war, or any other apprehension but what he had mentioned, which caused this opposition in him.

Mr. GALLATIN said, if the propositions could be divided, no gentleman could reasonably object to the sense of the House being taken upon them.

Mr. PARKER said, he had not yet spoken upon this business. He would now say, he disapproved of the amendment, and should not vote for it. He thought the Treaty a bad one, and would not agree to vote for it by means of any modification.

Mr. HEISTER said, he should vote for the amendment, because, if the Treaty went into operation, he should wish the reasons which induced the House to agree to it to appear on the Journals. When, however, the resolution for carrying the Treaty into effect was put he should vote against it.

The motion was then put on the preamble, and decided in the negative, as follows: Yeas 49, nays 50:

YEAS.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, John Clopton, Isaac Coles, Henry Dearborn, Samuel Earle, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Christopher Greenup, Andrew Gregg, William Barry Grove, Wade Hampton, Carter B. Harrison, John Hathorn, Jonathan N. Havens, Daniel Heister, James Holland, George Jackson, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, John Nicholas, Alexander D. Orr, John Page, Francis Preston, Robert Rutherford, Israel Smith, John Swanwick, Absalom Tatom, Philip Van Cortlandt, Joseph B. Varnum, Abraham Venable, and Richard Winn.

NAYS.—Fisher Ames, Benjamin Bourne, Theophilus Bradbury, Nathan Bryan, Daniel Buck, Thomas Claiborne, Joshua Coit, William Cooper, Jeremiah Crabb, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Chancey Goodrich, Roger Griswold, George Hancock, Robert Goodloe Harper, Thomas Hartley, John Heath, Thomas Henderson, James Hillhouse, William Hindman, Aaron Kitchell, John Wilkes Kittera, George

Leonard, Samuel Lyman, Francis Malbone, William Vans Murray, Josiah Parker, John Reed, John Richards, Theodore Sedgwick, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, Samuel Smith, William Smith, Thomas Sprigg, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

From this list it appears that the question was lost by one vote. The Clerk, however, through mistake, reported the votes to be equal, viz: 49 for and 49 against the question, and the SPEAKER gave his vote in the negative, but the above was afterwards found to be the true statement.

Mr. W. SMITH was, glad the motion was negatived. He did not wish either blame or praise to be cast upon the Treaty by the resolution passed to carry it into effect. He would, therefore, move to add the following words to the original resolution: "Without reference to the merits of the Treaty."

Mr. GILES opposed this amendment. He said, it would be an indirect mode of passing a censure upon the House for having undertaken to judge of the merits of the Treaty. He did not know whether it struck the gentleman in the same way, but he would agree it was improper to pass a censure upon the House. He hoped, therefore, the motion would either be withdrawn or voted against.

The motion was withdrawn.

Mr. SWANWICK said, had the amendment which had been proposed been adopted instead of being rejected, he might have waived his objections to the Treaty, and have voted for carrying it into effect: but when he was called upon to give a vote upon the unqualified resolution, however he might differ in sentiment from some of his friends, he should be under the necessity of voting against it. He knew the question was important. The gentleman from Massachusetts, [Mr. AMES,] in high wrought colors, had represented it in all its fulness. But, after reviewing his mind, he had not been able to see this instrument in that light which could induce him to give his vote for it. He hoped no impropriety of motive would be ascribed to any gentleman on that floor—he had no doubt every one acted as his feelings told him was right; and, on this eventful question, in which they must differ, he hoped they should have the candor to put the difference to a proper account. His interest would have led him to vote for the Treaty, as he had much property, in common with his fellow-citizens, on the ocean, and his ships were upon his own risk, and losses would of course be heavier to him than to most other merchants; but he could not, consistently with his judgment, which was imperious upon this occasion, vote for the Treaty, though he might have done it if the resolution had been qualified.

Mr. HOLLAND went over the reasons that would induce him to vote against the Treaty; which are detailed at length in his speech upon the merits of the Treaty. He said, that if the construction of the 9th article were to extend to the

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lands in North Carolina, late Lord Grenville's, as had been supposed by some gentlemen, the claim would certainly be resisted by force.

Mr. WINN said as it was his opinion and the opinion of the generality of his constituents that the Treaty was a bad one, he should vote against it.

The question was then taken by yeas and nays, and determined in the affirmative—yeas 51, nays 48, as follows:

YEAS.—Fisher Ames, Theodorus Bailey, Benjamin Bourne, Theophilus Bradbury, Daniel Buck, Gabriel Christie, Joshua Coit, William Cooper, Jeremiah Crabb, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Channcey Goodrich, Andrew Gregg, Roger Griswold, William Barry Grove, George Hancock, Robert Goodloe Harper, Thomas Hartley, Thomas Henderson, James Hillhouse, William Hindman, Aaron Kitchell, John Wilkos Kittera, George Leonard, Samuel Lyman, Francis Malbone, Frederick A. Muhlenberg, Wm. Vans Murray, John Reed, John Richards, Theodore Sedgwick, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, Samuel Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Philip Van Cortlandt, Peleg Wadsworth, and John Williams.

NAYS.—Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Thomas Claiborne, John CLOPTON, Isaac Coles, Henry Dearborn, Samuel Earle, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Christopher Greenup, Wade Hampton, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Daniel Hoister, James Holland, George Jackson, Edward Livingston, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Anthony New, John Nicholas, Alexander D. Orr, John Page, Josiah Parker, Francis Preston, Robert Rutherford, Israel Smith, Thomas Sprigg, John Swanwick, Absalom Tatom, Joseph B. Varnum, Abraham Venable, and Richard Winn.

Ordered, That a bill or bills be brought in pursuant to the said resolution, and that Mr. HILLHOUSE, Mr. SEDGWICK, and Mr. GALLATIN, do prepare and bring in the same.

[RECAPITULATION.]

For declaring the Treaty highly objectionable 48
Against this declaration - - - - - 48

The SPEAKER decided in the negative.

For declaring the Treaty objectionable - - - - - 49

Against the declaration: some because they did not consider it objectionable; others because they feared making the declaration would be injurious, and others because, so opposed to the Treaty, as to object to all compromise - - - - - 49

The SPEAKER decided in the negative.

For carrying into effect the Treaty: some because a good one, others because best to execute it under existing circumstances - - - - - 51

Against carrying it into effect, because bad in itself and notwithstanding existing circumstances - - - - - 48

Absent on this question: MESSRS. SHERBURNE and FREEMAN, on leave; Mr. DUVAL, resigned; Mr. PATTON, by illness; Mr. FINDLEY, accidentally.]

MONDAY, May 2.

The bill making further provision relative to the revenue cutters, was received from the Senate, with some amendments, which were gone through and agreed to.

The reports of the Committee of Commerce and Manufactures on sundry petitions relative to the establishment of new ports of delivery and entry, were agreed to. By this report it is proposed that Ipswich, Little Egg Harbor, Havre de Grace, Newbury, Berkley, and Taunton, be made ports of delivery; that the district of Hudson should be confined to the city of Hudson alone; and that those places heretofore annexed to it, should be re-annexed to New York; that the district of Cedar Point should be called Nanjemoy; and that of Sherburne changed to Nantucket. The resolutions were referred to the committee who made the report, to bring in bills accordingly.

The House resolved itself into a Committee of the Whole on the report upon the petition of Jonathan Hastings, deputy postmaster of Boston, praying for recompense for his extra services in receiving and despatching the English mail for two years. It was recommended that he should have two hundred dollars allowed, which was agreed to, and a bill ordered to be brought in.

Mr. SWANWICK presented a petition and memorial from Richard Gernon & Co., of Philadelphia, praying that the bill proposed to repeal the act allowing a drawback on exported snuff might not go into a law, as they should suffer greatly by such a repeal, having made very considerable contracts abroad, which they should be under the necessity of completing. The memorial was referred to the Committee of the Whole, to whom the bill on that subject is recommended.

Mr. GREGG said, as he believed gentlemen would wish their session to come to an end as soon as the public business would permit, he should submit a resolution which would bring the subject under consideration. He proposed one to the following effect; which was agreed to, and referred to a select committee:

Resolved, That a committee be appointed on the part of this House, to be joined by a committee to be appointed on the part of the Senate, to consider and report what business remains necessary to be done during the present session, and at what time it will be proper to adjourn the same."

[This resolution was subsequently agreed to by the Senate, and a committee appointed on its part.]

Mr. ORR, chairman of the committee to whom was referred the bill from the Senate authorizing Ebenezer Zane to locate certain lands Northwest of the river Ohio, reported the bill without

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amendment. Referred to a Committee of the Whole.

The bill to ascertain and fix the Military Establishment of the United States, was read a third time, the blanks filled up, and passed. A division took place on the question whether there should be one or two troops of Light Dragoons. Two troops were determined upon—40 to 24.

Mr. HILLHOUSE, chairman of the committee appointed to bring in a bill for making appropriations for defraying the expenses which may arise in carrying into effect the Treaty lately concluded betwixt the United States and Great Britain, reported a bill; which was twice read, committed to a Committee of the Whole, gone through, and ordered to be engrossed for a third reading to-morrow.

Mr. JACKSON declared his intention of calling the yeas and nays upon the third reading of the bill.

The House resolved itself into a Committee of the Whole on the bill affording relief to distillers in certain cases, which was agreed to, went through the House, and was ordered to be engrossed for a third reading to-morrow.

The House resolved itself into a Committee of the Whole on a report of the Committee of Commerce and Manufactures on the petition of William Roche & Son, praying the return of an excess of duties which they had paid on vessels which had been charged as foreign vessels, on account of their having been several years employed in the whale fishery in France. The report of the committee was in favor of the petitioner; but it was disagreed to.

REIMBURSEMENT OF DUTIES.

The report on the petition of Moses Meyers, of Norfolk, for a reimbursement of duties which had been paid on twenty bales of goods which had been damaged by the oversetting of a schooner, which was conveying them from a French ship-of-war, which lay at a distance of eighteen miles from the port, on account of her drawing more water than the river contained. The report was in favor of the petitioner, and was agreed to, but not without considerable debate. It was opposed on the ground of the vessel's having completed her voyage; that, after an entry was made at the custom-house, no allowance for damage could be made; that this case was the same with claims which had hitherto been resisted for goods which had been destroyed by fire, or otherwise, after the duties were secured. On the other hand, it was contended that the vessel had not completed her voyage, and that the owners were as much entitled, in cases of insurance, for damages done in a river, as for those done at sea; that the entry having been made at the custom-house arose from the necessity of taking up the goods in lighters, owing to the large size of the vessel. It was even urged by Mr. S. SMITH, that the petitioner was not only entitled in this case, but if a bale of goods were to fall overboard, in unloading at a wharf, and thereby received damage, an abatement of the duties ought to be made, as it was always un-

derstood the duties were not to lie upon the merchant, but upon the consumer.

The report on the petition of Philip Finney, owner of some fishing vessels, praying for the payment of a bounty which he had been deprived of for want of formality, was against the petitioner. Agreed to.

The report on the petition of Samuel Brown, of the same nature with the last, was in favor of the petitioner, but it was disagreed to.

The House took up the above report, and agreed to the determinations of the Committee of the Whole, except in the case of the last petition, which was disagreed to by the casting vote of the SPEAKER, and the report of the Committee of Commerce and Manufactures was agreed to by the same casting vote.

The resolutions were referred to the same committee to report a bill or bills accordingly.

DRAWBACK ON SNUFF.

Mr. GOODRICH called up the report respecting the repeal of the drawback allowed on all exported snuff. This occasioned considerable debate. It was urged that there was a necessity for the repeal, as the Treasury were daily paying immense sums in drawbacks; and that as it was not likely they should pass any new law upon the subject this session, it was necessary to repeal the drawback. This was objected to, as by such a repeal, the staple commodity of the Southern States would be taxed on exportation; and that, instead of repealing the drawback, the law itself should be repealed.

Mr. NICHOLAS moved a resolution directing the Committee of Commerce and Manufactures to make a report on the several petitions which had been referred to them, praying for a repeal of the duties of snuff; but, after some little debate, a motion was made to adjourn, and the House adjourned without making any disposition of the resolution.

TUESDAY, May 8.

Mr. MADISON, chairman of the committee appointed to inquire into the number of lots of land, and the quantity of acres, reserved for the future disposition of Congress, in the sales made to the Ohio Company and others, made a report, which was twice read and referred to a Committee of the Whole.

The bill providing for the relief of the owners of stills in certain cases, was read a third time, and passed.

Mr. S. SMITH, chairman of the committee to whom was referred the amendments of the Senate to the bill for providing relief and protection to American seamen, reported, that the committee were of opinion that the House should disagree to the amendments, and appoint a Committee of Conference with the Senate. The House took up the report, agreed to it, and a Committee of Conference was appointed.

A petition was presented and read from John Nicholson, of Philadelphia, praying that an addi-

tional duty should be placed on certain kinds of glass imported into the United States.

Mr. THATCHER moved that the Committee of the Whole, to whom was referred the report of a select committee respecting Post Offices and Post Roads might be discharged, on the ground that more time might be given to ascertain whether certain proposed alterations in the roads would be advantageous or not. This motion was negatived, and the House resolved itself into a Committee of the Whole on the consideration of the report; and, after making some progress therein, the Committee rose, and had leave to sit again.

A bill relative to the making of a road from Wiscasset, in Maine, to Savannah, in Georgia; and a bill for compensating Jonathan Hastings, were read.

Mr. W. SMITH, Chairman of the Committee of Ways and Means, reported the bill as amended, in consequence of the inquiry made of the Directors of the Bank for the payment of the debt due to the Bank of the United States, together with a report respecting that inquiry; which was read a second time, and ordered to be referred to a Committee of the Whole.

The following is the answer of the Bank to the inquiry of the Committee, whether the Bank required payment of the whole five millions said to be due, or whether they would be satisfied with a part, and let a part remain as heretofore:

The committee appointed to confer with the Committee of Ways and Means on the subject of continuing, to a remote period the loans made to the United States, having reported:

"The Board took into consideration the most essential points that had relation to the present subject, viz: the great increase in the price of all alienable property, which requires a corresponding addition of circulating medium to represent it; the necessity of placing this institution in a more respectable situation, in point of available funds, which will enable it to promote more generally the interests of commerce and manufactures, and afford the means of facilitating the financial operations of the Government by temporary loans, whenever the fiscal administration may require such a resource, as well as the more immediate advantages of the stockholders and customers of the Bank, intimately connected with the active employment of a large specie capital: Whereupon,

"Resolved, That the United States be requested to extinguish the loans that are already due to the Bank, as well as to make provision for those which may become payable in the course of the present year.

"THOMAS WILLING, *President.*

"BANK OF THE UNITED STATES, April 21, 1796."

TREATY WITH GREAT BRITAIN.

The bill making appropriations towards defraying the expenses of carrying into effect the Treaty lately concluded between the United States and Great Britain was read a third time, the blanks filled up, and passed.

The blanks for the sum of money to be appropriated for carrying the act into effect, was filled up with \$80,808; that for payment of each of the Commissioners in London, with \$6,667 50; and

that for those residing in the United States, with \$4,445 each.

Mr. FINDLEY having been absent when the two questions on the British Treaty were taken in the Committee of the Whole and in the House, now, when the bill for carrying it into effect was about to be passed, he said, having been under an urgent necessity to be absent from the House for a short time during the sitting of Saturday, when the question was taken for making the laws necessary for carrying the Treaty with Britain into effect, and being thus prevented from having his name entered on the Journals, which, though it would have made no change in the state of the vote, he wished to have done—he desired now to express the sentiments by which he would have been governed. Urgent as was his call to leave the House, he would have dispensed with it if he had suspected the discussion would have been finished so soon.

He said, he had it much at heart to have a resolution recorded on the Journals expressive of the sense of a decided majority of that House, and he believed of the people of the United States, very generally, respecting the character of the Treaty. If that had been done, he had made up his mind to have given it no further opposition; but, from some gentlemen disapproving of the Treaty so highly that they would not vote in favor of any question that was calculated to give it efficacy; and, from others, who though they had discovered a marked disapprobation of it, yet did not choose to record that disapprobation on the Journals, this resolution was not carried by a majority of votes; therefore, that he might not be responsible for the consequences of the Treaty, he would vote against the bill before the House for carrying it into operation, and very briefly assign his reason for doing so.

He acknowledged that there were imperious circumstances which urged the House to carry the Treaty into effect. The enormous spoliation committed by the British on our trade, which were expected to be reimbursed in consequence of the operation of the Treaty, powerfully addressed our interest, and this, with an apprehension of the increase of depredations on our trade if the Treaty did not go into effect, which depredations and the outrageous impressment of our seamen, however, are still continued, and the agitation which has been excited in the public mind, had determined a number of members to vote for carrying the Treaty into effect, who have expressed a high degree of disapprobation of the instrument. He said, that he felt the force of these imperious circumstances, and they had determined him to waive his objections arising from the want of reciprocity, security against continued hostilities, or other defects of the Treaty, if it had not been perseveringly advocated on principles abhorrent to our Government, and which, if admitted, effected a change of its principles equal to a revolution.

He said, he had examined the Treaty in connection with the principles on which it was advocated, with the most unprejudiced deliberation of

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which he was capable, and could not justify himself in sanctioning an exercise of powers founded on so dangerous a latitude of construction, as acknowledged a transfer of the powers specifically vested in Congress, without its concurrence or consent.

He said, that the power of regulating commerce with foreign nations was as explicitly vested in Congress, as the powers of appropriating money, declaring war, levying taxes, &c., and by the principles on which the Treaty is advocated, the negotiating power may exercise these or any other or all the Legislative powers of Congress, or transfer them to be held in concurrence between the negotiating power and foreign nations, without the concurrence of Congress, with which these powers are specifically vested and expressly guarded.

He added, that the construction on which the Treaty was supported, viz: that the Treaty-making power might exercise any or all of the powers vested in Congress, as far as they related to foreign nations, was not supported by the Constitution, but destructive of it; declarations of war and all things connected with them, have as necessary a relation to foreign nations as the regulating of commerce has, and the levying taxes and appropriating money for carrying such Treaties into effect have as much relation to foreign nations as the regulations of commerce, as they cannot be carried into effect without the exercise of these powers; consequently, on the principles on which the Treaty is supported, the PRESIDENT, with the consent of the Senate, in its Executive capacity, may declare war, levy and appropriate money, and exercise every other Legislative power vested in Congress, by only connecting the exercise of them with the Treaty form. He said, this was not sanctioned by the words of the Constitution; it is no where said that the negotiating powers should exercise any or all the powers vested in Congress by the only means of interesting foreign nations in the exercise of them by Treaty. Such a latitude of construction cannot be admitted, because it subjects all the Legislative authority to the discretion of the Executive and foreign nations.

He said, the only expressions on which this new construction rested was the declaration that the PRESIDENT and Senate shall make Treaties; but the declaration in the Constitution that Congress, consisting of a Senate and House of Representatives, shall make all laws; yet, notwithstanding the positiveness of the word "make," what they do make is not a law until it is approved and signed by the PRESIDENT. Admit the word "make" to have the same meaning in the one case as in the other, and the difficulty is removed. The construction for which he contended preserved the Constitutional powers in their proper departments, and where the negotiating power thinks it proper to treat on Legislative subjects, let the concurrence of Congress be obtained, as is usual in all free Governments, and the Constitution is preserved; but on the construction contended for by the advocates for the

Treaty, its principles were so essentially changed that he felt himself constrained to vote against the bill for carrying a Treaty into effect which embraced such powers and was supported by such principles. The power of sequestrating debts he did not at this time object to, on account of our peculiar circumstances with relation to Britain. Sequestration stood connected with war, as it was of use only as a means of preventing war or carrying it on with advantage; therefore, the formal power of declaring war may, on the same principles, be exercised by the Executive; and war is more frequently engaged in Europe by Treaties than by any other method.

Our Constitution undoubtedly intended to prevent the exercise of this power by Treaties, but it has as explicitly restrained the power of regulating commerce.

He said, he wished to give his testimony by having his say on the Journals; but, as it was his misfortune to be out when the yeas and nays were called on the same question, and not the fault of the House, it would be improper for him to urge a repetition of the call merely on his own account, but would be glad if any other member would call them that he might have an opportunity to give his say. Whether the names were called or not, he said he would vote against the bill.

Mr. JACKSON said, he had yesterday declared his intention of calling for the yeas and nays upon the passing of the bill; but as it had since occurred to him, that it might be thought this would be carrying opposition too far, he would decline persisting in his intention. The yeas and nays were, therefore, not taken.

WEDNESDAY, May 4.

Mr. GOODHUE, Chairman of the Committee of Commerce and Manufactures, reported a bill for the relief of Samuel Brown; another for the relief of Moses Myers; another for the erection of a light-house on Cape Cod; and one for the establishment of certain new ports of entry and delivery; which were severally twice read and ordered to be engrossed for a third reading.

Mr. G. also made a report on the petitions of certain custom-house officers, recommending that they should lie over till the next session. Agreed to.

Mr. NICHOLAS, Chairman of the Committee appointed to confer with a committee from the Senate, with respect to the business which remained necessary to be finished before the session ended, and when it would be proper to adjourn the same reported it as the recommendation of that committee that the session should be adjourned on the 20th of the present month. He also reported a list of business which was entitled to a preference.

The House resolved itself into a Committee of the Whole on the report of the committee on the subject of Post Offices and Post Roads; which, having gone through, and made several amendments, the House took up the consideration of

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them, and the report was referred to a select committee to bring in a bill or bills.

Mr. SITGREAVES, Chairman of the Committee appointed to consider upon the petition of certain attorneys respecting the holding of District Courts at Yorktown and Philadelphia, reported a recommendation that that part of the act which directs the sessions to be held alternately at Philadelphia and Yorktown be repealed, &c., and some other regulations made. The report was agreed to, and a bill directed to be brought in.

The House resolved itself into a Committee of the Whole upon the report of the committee to whom was referred the Message of the PRESIDENT respecting the forming the Territory South of the river Ohio into a new State, by the name of Tennessee; and several documents relative thereto having been read, the Committee rose, and had leave to sit again.

A message was received from the Senate, informing the House that the Senate had agreed to the several bills for carrying into effect the four Treaties lately concluded. Two trifling amendments were made in that for carrying into effect the Treaty with Spain; which were agreed to.

The House then resolved itself into a Committee of the Whole on the bill allowing a certain compensation for horses killed in battle; which having gone through, the House took it up, and ordered it to be engrossed for a third reading.

THURSDAY, May 5.

The SPEAKER informed the House that he had received a letter from the Governor of Maryland, informing the House that an election for a member of Congress, in the place of Mr. DEVALLE, resigned, had taken place; which communication was read. The gentleman elected is RICHARD SPRIGG, Jr.

A report of the Attorney General, relative to the contracts of John Clevcs Synmes, for certain lands in the Northwestern Territory, was twice read, and ordered to be committed to a Committee of the Whole.

The following bills were read the third time and passed, viz: for compensating Jonathan Hastings for extra services; for the relief of Samuel Brown; for the relief of Moses Myers; for authorizing a light-house on Cape Cod; for allowing compensation for horses killed in battle; for establishing several new ports of entry and delivery.

Mr. SITGREAVES reported a bill for repealing so much of the act as directs that the District Courts of Pennsylvania shall be held alternately at Philadelphia and Yorktown; which was twice read and ordered to be engrossed for a third reading.

Mr. GOODRUE, Chairman of the Committee of Commerce and Manufactures, made a report on the memorial of Sylvanus Bourne, Vice Consul at Amsterdam, for the reimbursement of two hundred and six dollars, expended in the relief of the master and crew of the ship Washington, which was wrecked on the coast of Holland, in November last; and also upon the petition from the

State of Delaware, praying that provision might be made to prevent the stealing of negroes and mulattoes. On the first case, the report was in favor of the memorialists; it was twice read, and a bill ordered to be brought in. Upon the latter, a law was recommended to be passed, and the report was committed to a Committee of the Whole.

The House resolved itself into a Committee of the Whole on the bill making provision for the payment of certain debts due to the Bank of the United States; which having gone through, the Committee rose, took it up, and it was ordered to be engrossed for a third reading.

ADMISSION OF TENNESSEE.

The House then resolved itself into a Committee of the Whole on the Message of the PRESIDENT, relative to the Tennessee country. The report of the select committee was read, as follows:

"Resolved, That, by the authenticated documents accompanying the Message from the President of the United States to this House, on the 8th day of the present month, and by the ordinance of Congress bearing date the 13th of July, 1787, and by the law of the United States, passed on the 26th of May, 1790, it appears that the citizens of that part of the United States which has been called the Territory of the United States South of the river Ohio, and which is now formed into a State, under a Republican form of Government, by the name of Tennessee, are entitled to all the rights and privileges to which the citizens of other States in the Union are entitled under the Constitution of the United States, and that the State of Tennessee is hereby declared to be one of the sixteen United States of America."

Mr. W. SMITH rose and said he was opposed to the report. He thought the select committee had not attended to some important principles which resulted from an examination of the subject. Several questions arose in his mind, on considering it: 1st. What were the rights of the people of the Territory South of the Ohio, as secured to them by compact with the United States?—2d. By what authority was the census to be taken in order to ascertain the requisite number of inhabitants to entitle them to a participation in the Federal compact? 3d. Had the census been fairly taken?

1st. The rights of the people of the Territory South of the Ohio were founded on the act of Congress of April, 1790, accepting the cession of North Carolina; the deed of cession, as recited in that act, ascertained the rights of the inhabitants of the ceded Territory. The fourth section of the cession stipulated that "the Territory so ceded shall be laid out and formed into a State or States," containing a suitable extent of territory; the inhabitants of which (that is, of which State) shall enjoy all the privileges set forth in the ordinance of Congress of July, 1787, for the government of the Territory Northwest of the Ohio. That ordinance was therefore to be considered as the charter of the Territory; in that were to be found the rights of its inhabitants, and their claim to a participation in the councils of the Union.

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The ordinance of July, 1787, provided that the Territory Northwest of the Ohio should, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

The ordinance then provides that when there are five thousand and free male inhabitants in that Territory, the inhabitants shall be entitled to a Legislature, still however remaining subject to the government and control of Congress. It then sets forth:

"That, in order to provide for the establishment of States and permanent government in the said Territory, and for their admission into the Federal Councils on an equal footing with the original States, at as early a period as may be consistent with the general interest, it is declared that the following articles shall be considered as articles of compact between the original States and the people and States which may be formed therein, shall forever remain a part of the Confederacy of the United States, subject to the articles of Confederation, and to such alterations as shall be constitutionally made, and to all the acts and ordinances of the United States."

"ART. 5. There shall be formed in the said Territory not less than three nor more than five States; and whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever, and shall be at liberty to form a permanent Constitution and State Government."

The act of Congress of May, 1790, establishing a Government for the ceded Territory South of the Ohio, declares that the said Territory, for the purposes of temporary government, shall be one district, the inhabitants of which shall enjoy all the privileges set forth in the ordinance of the late Congress for the government of the Territory Northwest of the Ohio; and that the government of the Territory South of the Ohio shall be similar to that which is now exercised in the Territory Northwest of the Ohio.

Mr. S. said, from a review of these acts and ordinances, the following deduction seemed clearly to result: that the inhabitants of the Territory Northwest or South of the Ohio could not claim an admission into the Federal Councils until the Territory was previously formed into one or more States. Secondly, that Congress was alone competent to form the Territory into one or more States. This conclusion, he thought, obviously flowed from the terms of the compact, "States shall be formed in the said Territory;" and whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, &c. The privilege of admission into the Union, and the number of sixty thousand free inhabitants, have reference to the Territory only in its capacity as a State; they are only applicable to a State or States previously formed by Congress. The first step then to be taken was for Congress to determine whether the Territory South of the Ohio should be formed into one or more States, and to fix the boundary of such State or States.

It was clear, Mr. S. said, that Congress might

subdivide that Territory into two or more States; this was evident, both from the terms of the compact in the ordinance of 1787, which declares "that States shall be formed in the said Territory," and from the act of cession of 1790, which declares that "the Territory so ceded shall be laid out and formed into a State or States, containing a suitable extent of territory." It was no less clear that the number of sixty thousand free inhabitants had no reference to the Territory, in its present character as a Territory under the government of Congress, but as a State, previously formed by Congress. Allowing that there were sixty thousand inhabitants in the Southern Territory, Congress might, undoubtedly, by dividing it into two States, leave less than sixty thousand inhabitants in either, and consequently deprive them of any claim whatever to an admission into the Union at this time.

Both the ordinance and act of cession contemplated, first, a temporary, and after a certain period, a permanent Government; the temporary Government was to be adapted to its character as a Territory of the United States, the permanent Government was intended to apply to it when formed into a State.

2dly. By what authority is the census to be taken?

The Constitution of the United States vests in Congress the power to make all needful rules and regulations respecting the territory of the United States.

The Legislature of the Territory have, by the ordinance which is their charter, authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles established in the ordinance.

The taking a census, the result of which was to determine whether the Territory was to remain subject to the Government of the United States or be an independent State and admitted into the Union, could never have been considered as a common act of legislation for the government of the district; it was an extraordinary case, which peculiarly required the interposition of Congress.

Their Legislative power related only to their internal concerns, and was incompetent to this great and external object. But if his reasoning on the former point was correct, the enumeration of the inhabitants was premature and of no effect; it could have no operation until Congress had formed a State, and designated its boundaries.

3dly. Had the census been fairly taken?

Mr. S. thought there were circumstances to warrant an opinion that the census was not such a one as ought to be relied on. A comparison of the act of Congress of 1790, for taking the enumeration of the inhabitants of the United States, with the act of the Southwestern Territory, would show that although the latter was generally copied from the former, yet that it pointedly deviated from it in every circumstance which would have a tendency to swell the number of inhabitants. The act of Congress spoke of "the inhabitants within the respective districts." The act of the Territory spoke of "people within the respective counties." Where the one says, "persons resident

within," the other says, "people within;" thus carefully omitting the words "inhabitants," "resident." The act of Congress says, "that every person whose usual place of abode shall be in any family on the first Monday of August next, shall be returned as of such family." The act of the Territory says, "every person whose abode shall be in any family within the time limited by the act, shall be returned as of such family." The one says, "the name of every person who shall be an inhabitant of any district shall be inserted," &c. The other says, "every person who shall be in any county at the time of the enumeration without any settled place of residence, shall," &c. By the act of Congress, the returns are directed to be posted up, to guard against frauds. By the act of the Territory no such caution is observed.

From the peculiar period in which the census was taken, viz: from the 15th September to 15th November, the period of the greatest emigration through the territory of Kentucky and Cumberland, from the circumstance of the Sheriffs being allowed a dollar for every 200 persons they returned, from the circumstance of the number returned being just sufficient to give them two members, and from the law being so framed as to authorize the enumeration not only of all transient persons and strangers, but also of the inhabitants and travelers, several times over; it was not an uncharitable conclusion that the enumeration was not so correct as to be admitted by Congress on so solemn an occasion.

Mr. S. said he had looked into the Constitution of this new State, and he could not help observing that it carried with it the same marks of haste and inaccuracy as the rest of the proceedings. In several parts it was repugnant to the ordinance of 1787, and to the Constitution of the United States. It vested the Legislature with all powers necessary for the Legislature of a free State, without any exception of the stipulations contained in the ordinance, which in several important points control and restrict the States to be formed in the Territories in their Legislative acts; and it is evident that no limitations were intended to the power of the Legislature, because in speaking of the Executive power, such a limitation is inserted. Art. 2, section 5, says "the Governor shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States;" thence it followed that the Legislative power was meant to be unqualified by any exception. The articles which made all lands within the Territory equally liable to taxation, which declared that no fine shall be laid on a citizen of this State exceeding fifty dollars, unless assessed by a jury, and which declared that no article manufactured of the produce of the Territory should be subject to taxation, and that respecting the navigation of the Mississippi—all seemed to clash with some of the stipulations in the ordinance and with the Constitutional rights of Congress; and though there could be no doubt that the ordinance and the Constitution of the United States were paramount to the Constitution of Tennessee, yet the articles in the latter which

had been alluded to, might give rise hereafter, if now silently acquiesced in by Congress, to disagreeable discussions.

There were several other points in this Constitution which he thought objectionable; he would only, however, notice two which occurred, namely, the right asserted to instruct their Representatives, and their declaration, "that no person who denies the being of God, or a futuro state of rewards and punishments, shall hold any office in the civil department of the State," thus admitting such persons to hold military offices. In making these comments, he did not mean to call in question in the least the right of the people of the Territory to frame their own Constitution and form of Government, but to show that this Constitution might, if sanctioned by any measure on the part of Congress, involve the United States hereafter in some embarrassment, and that the people of the Territory would receive no injury by a delay of the business, and by a revision of the Constitution, which was susceptible of material improvement. Indeed, in his opinion, the whole business was premature, and he could not suppress his declaration that the United States had not been on this occasion treated with that consideration and respect to which they were entitled.

He was notwithstanding, willing, if the people of the Territory were desirous of being admitted into the Union, as a separate State, to facilitate such admission, provided it were done in a Constitutional manner. It was a matter in which the whole Union were interested, as well as the people of the Territory; it was of considerable moment to the United States, that a proposition which admitted a new State to the equal rights in one important branch of Government in the affairs of the nation should be seriously considered and grounded on clear Constitutional right. In order to conform the present application to such right, he thought the following course ought to be pursued: 1st. That Congress should declare the Territory south of the Ohio a State, for the purpose of permanent Government, and designate its boundaries. 2dly. That Congress should then pass a law, directing the enumeration of the free inhabitants. 3dly. That on finding the Territory to contain 60,000 free inhabitants, such State shall be admitted into the Union. Mr. S. then read certain propositions to that effect, which he informed the Committee he should propose, if the report of the select committee should be rejected.

He concluded with remarking, that, in a few years, other States would be rising up in the Western wilderness, and claiming their right to admission, and therefore the precedent now to be established, was of very considerable importance.

Mr. HARPER was of opinion, that this was one of those subjects on which the House should not exercise too rigid a scrutiny. The question was, whether or not the Territory Southwest of the river Ohio should be admitted into the Union as a State. The people of that country, as appeared from the papers before the Committee, now wish to relinquish their Territorial Government, and become a part of the Union. He believed, that

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in all questions relative to the formation of Governments, the wish of the people ought to be gratified. He believed, that whenever it should appear to be the wish of the United States, or of any considerable portion of them, to be governed in such or such a manner, their inclination should be attended to. Upon this principle, he should always be favorably inclined towards any proposition whose object was the division of States, or to erect new States, as the people themselves, who were to be affected by such measures, might appear to desire. For, if they were not really benefited by the change, they would, at least, think they were, and their inclinations should be consulted as well as their interests, where it could be done without injury to the public.

It appeared to him doubtful whether the people of the Southwestern Territory had a right to erect themselves, by their own act, into a State: but, admitting this to be doubtful, he thought there could be no doubt that the House ought to comply with their wishes, in this particular, by supplying the defect in their powers. He was desirous, therefore, of seeing some measure adopted, which should recognise that people as a State of the Union. With respect to ascertaining the exact number of their inhabitants, for the purpose of determining how many Representatives they would become entitled to, he was of opinion a census should be taken for that purpose, under the authority of Congress. He thought their wishes ought to be our guide in the question, whether they should become a State, but when, after being erected into a State, they claim a right to a certain number of members in the national representation, this becomes a public concern, and the right ought to be ascertained under the laws of Congress, and by the rules established for apportioning representation among the other States of the Union. It was clear, that no individual State had a right to take a census by its own laws, and to ascertain the number of its own Representatives, and surely this new State could not claim greater privileges than the old ones.

It farther appeared doubtful, whether, even admitting the right of a State to take its own census, a fair one could be taken under the law of Tennessee for that purpose. He was very far from charging the people of that Territory with any improper design, but their law certainly was liable to great abuse; and when the numbers under this imperfect law were barely sufficient to entitle them to two members, he should think it very doubtful, whether they ought to be allowed that number till the right was ascertained in some less exceptionable mode.

Upon the whole, their existence as a State was one branch of the question, and the number of inhabitants, and consequent number of Representatives in that House, was another. The two points were perfectly different, and to be settled on different principles. As to their existing as a State, he would, in almost all cases, adopt it as a rule, to comply with a wish of the people themselves. They, and not we, were to be affected by the regulation. Even should any small inconve-

nience result from this admission to the other parts of the Union, there was reason, he thought, why that inconvenience should be submitted to, rather than irritate the people of this Territory, by rejecting their application under the present circumstances; but he saw no such inconvenience; to admit them into the Union, he thought, would add to its strength and resources; would increase the public happiness and prosperity. He would, therefore, advise that the State of Tennessee should be acknowledged as a member of the Union, and that a law should be passed for taking a census of its inhabitants before the next session of Congress, so as to ascertain the number of members to which it would be entitled in that House.

Mr. SEDGWICK conceived that the mode of admitting, and the principles upon which the Southwestern Territory were to be admitted into the Union, were matters to be decided upon by the Legislature of the United States. The claim of that Territory to become a State of the Union, was the first instance of the kind which had come before them, and it was of importance to decide rightly, as it was establishing a principle to be acted upon hereafter. This Territory claimed to be admitted in consequence of certain acts, of an authority over which the United States had no control. This Territory claims, without your agency and without your consent, to be admitted as a State of the Union, and a representation in one branch of your Government equal to the State of Virginia, and into this branch of the Legislature, according to the census taken by her own authority. If such a claim can be made, there must be good authority for it. Till this morning, he had not thought upon the subject; but he had formed an opinion from the facts which he had looked into.

The first article on this subject was the ordinance of the old Government respecting the Northwestern Territory; by which it appeared that so soon as there were 5,000 inhabitants, they were to have a Government of their own, and to form their own Legislature, and that Legislature was to send a Representative to that House on certain conditions. It went to state certain principles, which principles should be viewed and attended to.

The fifth article, the only one of considerable importance, stated that the Territory should be formed into not less than three, nor more than five States. It goes on to say, that the boundary shall be fixed, and that whenever any of the States shall have 60,000 free inhabitants, then they shall be admitted into the Union on an equal footing with the original States. Who, according to this, was to do the act which should furnish the evidence by which the claim should be tried, to come in and act as an independent member of the Union? If the Territory or Colony itself should do it, then it was in her power, independent of all the other States, to assert her claim to be a member of the Union.

The ordinance provided also, that there should neither be slaves nor slavery tolerated in that

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Territory; but he found there were slaves to a very considerable number there. The next proceeding relative to this business was, the act of Congress of May 6, 1796, enacting that the Territory Southwest of the river Ohio should be one, and should have a Governor and Council appointed. It seems that antecedent to their claiming a right to become a State of the Union, they should be declared a State by Congress; because without this declaration it would be difficult to say whether the Territory should be one or more States.

In the act of session of North Carolina of this Territory, a number of conditions were made necessary before the cession was to take place. One condition was, that the Territory so ceded, should be laid out and formed into a State or States. Who was to do this? Congress.

He would observe, that this Territory might exist in one or two States without the capacity of being admitted into the United States. Because that division and cognizance by the United States must precede the time of their claiming admission to the same privileges and rank with the other States. He therefore conceived it impossible that this Territory, at any period antecedent to the United States, declaring it a State or States, should possess a right to become so. Congress was to decide, and having made this decision, they were then to become a member or members of the Union, equally with the original States. Congress would, of course, refer to the cession of North Carolina to determine whether the Territory should be divided or not; and if to be divided, into how many States? and if this had been done, then to ascertain the number of inhabitants, and thereby determine whether they were entitled or not to become a State or States of the Union. The whole proceeding was to succeed the decision of the Legislature of the United States, and if this decision did not take place, they were not entitled.

The number of the people in the Territory to entitle them to become a State or States, must be of inhabitants. But he thought the observations made by the gentleman from South Carolina [Mr. W. Sumr.] with respect to the census which had been taken, were worthy of notice. He did not impute bad intentions to the persons concerned; but frauds might take place, at least mistakes would, in the plan adopted for taking the census. During the time this census was taken, was the season in which there was the greatest flow of emigration into that country; and, instead of directing the inhabitants, they direct the people, within the Territory, to be taken; and instead of confining the census to be taken on a certain day, they give it a latitude of two months, so that the same men might be taken in several different counties; indeed, a man might be taken upon every acre of land in the Union. He did not say there were any unfair means used; he hoped there were not; but the mode adopted was certainly liable to objection. It was necessary that everything in this business should be perfectly fair, as the greatest abuses might here-

after be committed on the ground of an improper precedent. Why, if the people in this Territory want to come into the Union, do they not comply with the necessary means? If they were to be admitted on their present claim, it would not be from your authority, but from their own. We are to give them the same power and character with the original States, because they say they are entitled to that rank.

Mr. S. asked whether this was right and proper, and whether the interest of the United States would be safe, if they were to adopt such a practice? There were many vast tracts of territory belonging to the Union, and many States might hereafter be erected; and as it had already been determined that a small State should have as great a representation as a large one in one branch of Government, it behooved them to be careful in admitting parts of their Territory into their Union, until they had due proof of their being in every respect entitled. Neither ought the request of a few persons to be attended to on this head before a State was admitted; it should appear evident that the people in general wanted to change their state, otherwise, whilst they were attending to the wishes of a few, they might be acting contrary to those of the many.

Mr. S. concluded by saying, that he had never read the Constitution of Tennessee, nor considered the subject till that morning; but thought they ought not to depart from principle, because requested to do so.

Mr. Madison said, that no answer was necessary to the arguments of the gentleman last up, nor to those of the gentleman from South Carolina who preceded him. If they proved anything, they would go against themselves. He would make a few observations on the subject, and a few would be sufficient.

The gentleman from South Carolina seemed to think that the ordinance by which this State should be admitted into the Union, required that the Territory should first be acknowledged as a State, and then have the inhabitants of it as such numbered under the authority of Congress. He thought this would be spinning a finer thread than was necessary, and would give the people reason to suppose, that the General Government was disposed to keep them in their present condition as long as possible. If the Legislature of the United States should be convinced that the Territory contained a sufficient number of inhabitants to entitle them to admission into the Union, it was matter of form only how the census had been taken, or whether the Territory had been previously acknowledged as a State by Congress, or not. The fact of population was the only necessary one. And would no evidence satisfy gentlemen but such as they themselves shall direct? He should have thought that the passing of a law for the purpose, by the Provisional Government, was safe as to the result. The Governor being appointed by Congress, and the law having his assent, and being executed under his direction, gave the measure the authority of the United States. There appeared to him no just ground

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for supposing the census had not been fairly taken. He would make one observation, which it appeared to him should have some weight. If there were the stipulated number of inhabitants, that Territory could not be denied its claim of becoming a State of the Union without a violation of right; but, if the inhabitants requested it, and Congress pleased to admit them before they had their full complement, the error could not be of so serious a nature.

Another important consideration. The inhabitants of that district of country were at present in a degraded situation; they were deprived of a right essential to freedom—the right of being represented in Congress. Laws were made without their consent, or by their consent in part only. An exterior power had authority over their laws; an exterior authority appointed their Executive, which was not analogous to the other parts of the United States, and not justified by anything but an obvious and imperious necessity. He did not mean by this to censure the regulations of their Provisional Government; but he thought where there was doubt, Congress ought to lean towards a decision which should give equal rights to every part of the American people.

If there should be any inaccuracy in admitting them into the Union before they possessed the full number of inhabitants, it was only a fugitive consideration; the great emigrations which take place to that country will soon correct the error. But he did not believe there could be any doubt on the subject. He thought the evidence was sufficient and satisfactory. He would not go into detail on the subject; for if the matter appeared to the Committee as it appeared to him, they would think there was no necessity for it.

Mr. NICHOLAS, like the gentlemen who had spoken against the admission of Tennessee, said he would consider the rights of that country; that he did not wish them to receive a favor of Congress, nor did he think they had occasion to ask one as their rights extended to everything they wished. If those gentlemen would examine the subject with him, they would find that they had at first only skimmed it.

Three objections have been made to the claims of that country, which he would consider in order. The first was, that Congress must have determined whether it should contain one or more States before they could assume the right of self-government, or be admitted into the Union. The second, that, after such determination, Congress must have ascertained, by a census, taken under its own authority, that the State laid off by them, contained sixty thousand free inhabitants. In the last place, it is contended, that if the Legislature of that country had a right to order an enumeration, the one taken appeared to be unfair.

If it was considered that these people claimed by the contract to become a part of the Union, it will be thought extremely improbable that either of the two first should have been considered as the meaning of the contract. To stipulate for benefits, and at the same time to leave to the party from whom they are extorted, the liberty to do,

or not to do, what is necessary to give those benefits existence, is to put the attainment in great hazard. If, for instance, the determination as to their being one or more States might be at any time made, it is competent for Congress to postpone such determination, and when they do determine, they may divide the country in such a manner as to preclude their inhabitants forever from self-government or representation here. If it depends alone on Congress to make the enumeration, they may delay this, also, at their own will, and defeat the rights of the other party.

To secure the objects the contract had in view, it appears to be necessary, then, that some limitation of time should be put to the power of Congress to divide that country into more States than one; and that, for the sake of both parties, there should be a mixed authority which should be competent to do the acts necessary for investing that country with the stipulated rights. Neither party could rely on the other doing it justice, if the power was to be in the hands of one, therefore it was extremely desirable that a power composed of both interests should have this control. Having made these observations, let us look into the contract and the Government of the country for these requisites, and there it will be found that they incontestably appear. The 11th article in the act of cession of North Carolina is in these words:

"That the Territory so ceded, shall be laid out and formed into a State or States, containing a suitable extent of territory, *the inhabitants of which*, shall enjoy all the privileges, benefits, and advantages set forth in the ordinance of the late Congress for the government of the Western Territory of the United States; that is to say, whenever the Congress of the United States shall cause to be officially transmitted to the Executive authority of this State, an authenticated copy of the act to be passed by the Congress of the United States, accepting the cession of territory made by virtue of this act, under the express conditions hereby specified: the said Congress shall, at the same time, assume the government of the said Territory, which they shall execute in a manner similar to that which they support in the Territory West of the Ohio; shall protect the inhabitants against enemies, and shall never bar or deprive them of any privileges, which the people of the territory West of the Ohio enjoy," &c.

Here, then, it is clear, that the distribution into one or more States must have been made immediately after the cession. That the stipulations for the benefit of temporary Government are for the inhabitants of one or more States, thereby making the division contemporaneous with the Territorial Government, and that unless a division was made in the commencement of the temporary Government, it never could be made. If the contract itself had not been so explicit, the reference to the condition of the Territory West of the river Ohio would require it; for the distribution of that Territory, so far as it depended on Congress, was made in their said act respecting that country. The spirit of the contract, the contract itself, in its letter and reference to the state of another country, required the division to have been immediately made, if at all; and, if it has not been done,

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it is a waiver of the right, and the country must remain as it is.

As to the power which is competent to make the enumeration of the country, there can be as little doubt, on attending to the subject, according to the ordinance referred to in the act of cession. Their Government was composed of a governor, chosen by the **PRESIDENT OF THE UNITED STATES**, a Legislative Council, also of his appointment, and the Representatives of the people. To them, as three distinct branches of legislation, was confided the government of the Territory, and no act could be made without the concurrence of all three. The ordinance does not say who shall ascertain the fact of their being sixty thousand free inhabitants, but declares that, when that was the case, they shall be entitled to form a Government for themselves, and be admitted into the Union. The question is, by whom the fact should be ascertained? If a scheme was to be formed for an impartial execution of this contract, human ingenuity could not devise one more proper than that of their Government. The Governor and Council, under the control of the United States—the people represented by another body. If the contract was to be made anew, could any person object to leaving the power in question in their hands? With such a composition, why should this be taken out of their Legislative operations? It is to be remarked, that when they are to entitle themselves to representation in consequence of having five thousand free males, the ordinance requires that proof should be made to the Governor. In the last stage of their population, it prescribes no mode, naturally supposing that it would devolve on the Legislature of the country. It is certainly both reasonable and a safe deposite of the power.

The law for taking the census has itself been the foundation of objection; perhaps it might be questioned how far we have a revision of the law made with consent of the Government through another channel, but it will afford good ground for refusing what they demand of us. It must naturally have been productive of misrepresentation, to be liable to objection. It is not to be presumed that a fraudulent disposition would have discovered it in the law. The execution of it afforded much safer means of deceiving us. It is not to be believed that the law meant what is imputed to it, but there can be no doubt but the excess over the requisite number is sufficient allowance for the conjectured effect. At any rate, we have a discretion to admit them before they get to any certain state of population; and considering the circumstances in which they will be thrown I have no doubt, said he, but that they ought not now to be admitted.

Mr. BLOVER said, he did not think it necessary to reply to the arguments of the gentlemen from South Carolina or Massachusetts, except what related to the law directing the census to be taken. The word "people" was used, as a more definite term than inhabitant, because the inhabitants of that country are almost always traveling. He would allow it to be possible that persons might be taken in more than one place, but he believed that had

not been the case. It frequently happened that persons waited several weeks at some place in Holston settlement, in order to get a company sufficient to pass the wilderness, and, if time had not been given, many of those persons would have been taken. If these things were taken into view, it would be seen that the design was not, as had been unfairly represented, to take persons in different parts of the Territory, but that all the people might be enumerated.

The gentleman from South Carolina said they had been very fortunate as to the number, so as just to be entitled to two Representatives; but that gentleman must know that the number of free persons was upwards of sixty-six thousand, and that for the purpose of ascertaining their quota of representation, they were entitled therefore to add thereto three-fifths of upwards of ten thousand slaves, which would make the whole number entitled to a representation of seventy two thousand. Mr. B. said he did not think it necessary at that stage of the business to make further observations upon the subject.

Mr. HILLHOUSE said, he was not hostile to these people being admitted as a State of the Union. He wished they might be admitted. He should wish, however, to have their boundary so settled that there might hereafter be no dispute on that head. He had no idea of incorporating lands within this State to which we had no right. We ought not, he said, to extend this Territory any further than the Indian line, and, when the title of the Indians became extinct, as far as the Mississippi and North Carolina boundary; but he did not wish to admit them as a State until their limits were fixed. He said they had no right to find fault with their Constitution, if it did not interfere with the Government of the United States. He did not think they should be divided; but he did not think there was any occasion for haste. He thought they would have no room to complain if they were to admit them into the Union as soon as their boundary could be settled. Some information upon the subject was necessary:—Northwestern and Southwestern Territories were too indefinite expressions for assigning boundaries.

Mr. FRANKLIN said, the boundary was well ascertained. The State of North Carolina was one boundary, and in the act passed this session relative to trade and intercourse with the Indian tribes, the Indian boundary was settled. No one would wish to go beyond the Indian lines, if they did they would be liable to a forfeiture of their lands. The boundaries were as well ascertained as they could be, until a mathematician should go and mark them out specifically. They had not lost sight of it in the reserves in North Carolina. It was there said all the unappropriated lands should be reserved to the United States.

The Committee rose, and had leave to sit again.

FRIDAY, May 6.

RICHARD SPRIGG, Jr., from Maryland, took his seat in the House, in the place of Mr. DUVALL, resigned.

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A bill for the relief of Sylvanus Bourne was twice read, and ordered to be engrossed for a third reading.

The bill making provision for certain Debts of the United States, was read a third time and passed. The blanks for the sum which the PRESIDENT was entitled to borrow on an irredeemable Loan for a number of years, was filled up with five millions.

The bill for repealing that part of the act relative to the District Courts of Pennsylvania being held alternately at Philadelphia and Yorktown, was read a third time and passed.

The House proceeded to consider the report of the Committee to whom was committed the bill, sent from the Senate, entitled "An act to amend an act, entitled 'An act to promote the progress of Useful Arts, and to repeal the act heretofore made for that purpose.'" Whereupon,

Ordered, That the said bill, together with the report thereupon, be recommitted to Mr. GRISWOLD, Mr. PAGE, Mr. HAVENS, Mr. MURRAY, and Mr. BRADBURY; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

Mr. S. SMITH laid a resolution, to the following effect, upon the table:

"*Resolved*, That there be allowed and paid, for the year 1796, to the Secretaries of the Treasury and War Departments, the Treasurer, Comptroller, Auditor, Register, Purveyor, and Attorney General, — per cent. on their respective salaries, in addition thereto."

ADMISSION OF TENNESSEE.

The House resolved itself into a Committee of the Whole, on the report of the committee to whom was referred the Message of the PRESIDENT, relative to the Territory of the United States South of the river Ohio.

Mr. RUTHERFORD hoped the Committee would concur in the report. He had no idea of confining that Territory to the strict legal line. He did not wish to cavil with this brave, generous people. He would have them taken out of leading-strings, as they were now able to stand alone; it was time to take them by the hand, and to say, we are glad to see you, stand on your own feet. We should not, he said, be too nice about their turning out their toes, or other trifles; they will soon march lustily along. They had complied with every requisite for becoming a State of the Union—they wished to form an additional star in the political hemisphere of the United States—they have erected a State Government, and wish to come into the Union, and to resist their claim would be out of character. He hoped it would be agreed to.

Mr. DAYTON said, he disapproved of the report of the committee, and of the terms in which the resolution they had recommended for the adoption of the House was expressed. He could never give his assent to any proposition which expressly or even impliedly admitted that the people inhabiting either of the Territories of the United States could, at their own mere will and pleasure, and without the declared consent of Congress, erect themselves into a separate and independent State. Yet

this seemed to be the spirit of the report under consideration, and what was still worse, it went, as he understood, to renounce any right in Congress even to deliberate whether they should become a member of the Union. He was by no means desirous of opposing the wishes of this valuable and enterprising people who inhabit the South-western Territory, nor of unnecessarily impeding the efforts they were making to throw off the Territorial jurisdiction, and establish a system of Government for themselves; but being aware that the steps now about to be taken would be regarded and pursued hereafter as a precedent, he conceived it important that they should, in this first instance of the sort that had presented itself, proceed circumspectly and rightly. He was willing to pass a law in the present session which should at the same time provide for erecting and forming them into a State, and for admitting them as such into the Union. They should thereby effectually promote the views of the people of Tennessee, in a mode which, by avoiding the violation of any just political principle, would entirely reconcile and render consistent the interest of that district of country and of the several United States.

Mr. D. acknowledged that he should have been much better satisfied if he had found all the people comprehended within the Territorial line petitioning for this measure, and if he had seen ingrafted in their Constitution the conditions and restrictions contained in the ordinance upon which they found the right they were claiming; but he knew that unanimity was in no instance to be expected amongst a people so numerous and scattered; and he was convinced that they were bound by the conditions and limitations he alluded to, without an acknowledgment and repetition of them in their new charter.

Mr. DEARBORN said, as to the census relative to representation, it appeared doubtful, that, because that Territory had now 66,000 inhabitants, they were entitled to two Representatives, as the other States of the Union were represented according to the number of inhabitants they contained in the year 1790. It might be doubtful whether they should be entitled to an advantage which was not allowed to other States. It had been his opinion (and he saw no reasons to change) that if this Territory was admitted into the Union, it was not entitled to more than one Representative; and therefore it was not necessary to make another census. As to passing a previous law recognising the Territory as a State before it was admitted into the Union, he did not think it necessary. They say they are now a State, and surely Congress would not say to them, You shall not be a State, or dictate to them what sort of a Constitution they shall have, provided it be Republican. The method taken for ascertaining their number of inhabitants, he thought, could not be objected to. He saw no reason to prevent them from accepting the Territory as a State of the Union: what number of Representatives they were entitled to would turn upon another point.

As to the boundary, it was a question of some consequence how far the district of a State should

extend. He believed it would be proper to exclude all that part of the Territory within the Indian boundary, and on that account it might be necessary to pass an act for the purpose. But he did not think it necessary to scrutinize into the business so closely as some gentlemen seemed to imagine. From the census, it appeared they had from 60,000 to 70,000 inhabitants. They had taken upon themselves to form a State—had formed a Constitution, and declared they were a State; and it would not become Congress, on light ground, to say they were not a State. Besides, he could not see the propriety of adopting any measure which might tend to irritate them. They formed an extensive frontier—were very far detached from the Atlantic States. We should rather, he said, think of conciliating than irritating them; and, though they may not have precisely adhered to the exact line of propriety, in every particular, it was the duty of that House to receive them as a State of the Union.

Mr. BLOUNT said the House should have determined upon this question long since, as the Government of Tennessee had a month ago gone into operation. The people there had chosen not only their State officers, but their Senators, and perhaps their Representatives, to come to Congress. The Governor had, from time to time, informed the PRESIDENT OF THE UNITED STATES of every step taken towards the proposed change of government. In July, he sent him a copy of the law directing the census to be taken; in November, when the census was completed, he sent him a copy of it, and a copy of his Proclamation requiring the people to elect members of Convention for the purpose of forming a Constitution and State Government; and on the 19th of February he sent him a copy of the Constitution, with notice that on the 28th of March, when the General Assembly of the State of Tennessee would meet to act on the Constitution, the temporary Government would cease; and this last information was, to his knowledge, received on the 28th of February—forty days before it was communicated by the PRESIDENT to Congress, and eleven days after it must have been known to the Secretary of State, if not to the PRESIDENT, that the State Government had gone into operation.

What would be the consequence, said Mr. B., of refusing at this time, and under these circumstances, to receive this State into the Union? Did gentlemen wish to re-establish a temporary Territorial Government there? If they did, he believed their wish would not easily be accomplished; for the people there believed, that in changing their Government, they only exercised a right which had been secured to them by a sacred compact; and under that belief, they will be disposed to defend it. That right was, in his opinion, recognized by the Government of the United States, when Mr. WHITE was permitted to take his seat in that House as the Representative of the Territory; and from that circumstance they had reason to expect that 67,000 inhabitants would have entitled them, without scruple, to be a member of the Union. If the census was not a just one, or if

there had been any fraud used in taking it, an impeachment would lie against the Governor, who, upon his responsibility as an officer of the United States, sanctioned the law for taking it, and acted under it after it was taken.

However the Committee might determine as to the sufficiency of the census to ground a ratio of representation upon, he thought it could not be doubted but it was sufficient to prove a right to form a Constitution and State Government, and to claim admission as a State into the Union.

Mr. W. LYMAN said the subject presented itself in two points of view—as it related to the Territory being admitted as a State into the Union, or as giving them a right to send members to Congress. In his opinion, according to the ordinance of Congress, they had a clear right to be admitted as a State into the Union; for it was there said that when they had 60,000 inhabitants, they should be entitled. No mode is pointed out how it shall be ascertained; but the Governor being expressly mentioned in the case where 5,000 inhabitants were to entitle them to a temporary Government, he thought there could be no doubt but the same way was to be observed with respect to their qualification for becoming one of the States of the Union. This fact, he said, came fully ascertained, and being so, there could be no doubt the right was clear. It was a right, indeed, which they could not deny, and, as a matter of expediency, it was not worth while to oppose it. He saw no reason why they should call in question the proceedings or the purity of the Government of that Territory, so as to doubt their return.

As to any particular expression in the resolution, he had no objection to have it altered; but he thought the resolution before them, or something like it, should be agreed to. The new Government was put into execution, and it would produce ill effects to oppose it. No evil would arise from agreeing to it, but to disagree to it might cause great evils: he hoped it would therefore be agreed to.

Mr. DAYTON said that he preferred the formation of the Southwestern Territory into one State, to a division of it into two, and he therefore did not agree with those gentlemen who had advocated the latter idea. The people had requested to be united into one State, and he was for complying with their request, and for taking them at their word, rather than by subdividing to give them a double representation in the Senate. He would not be understood as having said that he considered the census they had caused to be taken a proper one upon which to found the true ratio of representation, but only as sufficient evidence to justify Congress in passing the act which he proposed, especially as they might be formed into a State, even though their numbers did not amount to 60,000. It would be necessary to direct by a Legislative provision, and under similar restrictions and regulations to those prescribed for the States on a like occasion, the taking of a new census, which may be done in season to enable their Representative to take a seat at the next session. He held in his hand a resolution which

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seemed to him most proper for the Committee to adopt, and which he read, in the following words, viz:

"Resolved, That provision ought to be made by law for erecting and forming into one State the district of country called 'the Territory of the United States South of the river Ohio,' and for admitting it into the Union as a member thereof."

If this should be adopted by the Committee of the Whole, and agreed to in the House, a bill could immediately be brought in and passed, without delay through the House of Representatives, and probably through the Senate; but the report under consideration was of a barren nature, rather calculated to be entered and to sleep upon the Journals than to produce any operative act, or to require the concurrence of the Senate. Mr. D. said he could not consent to go further than he had stated, much less admit that by their own single act they had become a separate sovereignty; for if such a principle was sanctioned, it was impossible to foresee all the consequences, and extent of them. If they were, as had been represented, at this moment an independent State, they might offer or refuse at pleasure to become a party to this Confederacy, or they might, in offering to enter into the Union, annex to the offer such terms and conditions as should give them advantages over the other States, and they might even treat and ally themselves with any foreign Power. Although such an hostile or menacing measure was not to be apprehended on the part of a people so regardful of their true interests as those in question were, yet what security could there be for the prevalence of an equally good disposition through the whole extent of the other Territory in which ten new States had been contemplated, and in a part of which resided many whose attachment to another Government was well known? The rule they were now about to establish must operate in future as a guide, and it needed no effort to believe that this country would on some future occasion, and that perhaps not distant, lament the adoption of the principles contained in the report.

Mr. SEDGWICK concurred in opinion with the gentleman from New Jersey, [Mr. DAYTON;] and if any gentleman understood him to say that he did not wish the State of Tennessee to be admitted into the Union, it must have been an error, for he had no such desire. But, he was still persuaded that it was never intended that that Territory should have the power of settling the way by which they were to become one of the independent States.

What had been said by a gentleman from Virginia [Mr. MANISON] of their being in a degraded situation, because controlled by laws which were made by persons independent of them, would not only apply to 60,000, but to six persons. The question was whether they were in a situation in which they could claim to be a State? If they were, they ought to be admitted; if not, they ought not to be admitted. If the idea of the gentleman from New Jersey was adopted, they might be admitted at an early period. He had no

idea of charging Governor Blount with improper conduct: he was entitled to his respect. If it was intended that these people should decide upon their own situation, they ought to do it in the way observed in cases directed by the Constitution. Mr. S. proposed two resolutions—one for laying out territory into a State or States, and another for directing a census of the inhabitants to be taken.

It appeared to him that this was the way in which the subject should be considered: they should determine whether the Territory should be in one or two States, and before Representatives were sent to Congress, a census would be taken by authority of Congress. Words could not, he thought, have rendered more explicit the intention of the contracting parties than the words of the compact; and all this might be done in time for Representatives to be sent to the next session of Congress.

Mr. MACON said the chief differences in the opinions of gentlemen arose upon a subject which was not before the Committee, viz: the number of Representatives to which this new State was entitled in that House. The question before the Committee was on admitting the Territory to be a State of the Union. There appeared to him only two things as necessary to be inquired into: First, Was the new Government Republican? It appeared to him to be so. And, secondly, Were there 60,000 inhabitants in the Territory? It appeared to him there were; and, if so, their admission as a State should not be considered as a gift, but as a right. Their temporary Government (by whose authority the late census was taken) had not only a Governor appointed by the Executive of the General Government, but also a Legislative Council. To admit this Territory as a member of the Union, appeared to him as a matter of course. It also seemed as if the Executive was of that opinion. The President having been duly informed from time to time with the proceedings of that Territory towards being admitted into the Union, if he had thought they had been doing wrong, he would have set them right. It was also his opinion, that if they had passed a law directing a census to be taken, it would have been done exactly in the way the present had been taken. He thought the subject of navigation was settled by the Constitution of the United States; the waters in that country would be under the same regulations with all other waters in the Union, nor did he think there was any thing in the Constitution of Tennessee which had a contrary tendency. It appeared clearly to him that everything had been fairly done, and that they had a right to claim an admission as a member of the Union.

Mr. BALDWIN said, had he belonged to the Territory South of the Ohio, he should probably have been for pursuing a different mode of conducting this business, from that which it seems they have thought proper to adopt. He should have thought it desirable, a year or two ago, to have obtained from Congress an act pointing out the mode of taking the census, and ascertaining the events on which they were entitled to become a State. He said Congress ought also, of their own accord, to

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have taken up that subject, and made those provisions, though not requested by the Territory; and it had always been with surprise he had observed that the first act for forming that Territory did not contain those provisions. He thought, as to the principle in this case there could be no doubt. Whenever the event happened of their having 60,000 inhabitants, as pointed out by law, their right to be a State took place. It was to depend entirely on that contingency: when that was proved to have taken place, they could not be debarred. There having been no mode previously pointed out for ascertaining this fact, only makes it more difficult for the Territory and for Congress to be satisfied of the fact of their actually having so many inhabitants, but does not affect their right. He thought it best for the House to proceed to examine their census and the evidence which they had thought proper to collect and bring forward in their own way. He was ready to allow that, for himself, he should examine it more scrupulously than he should have done, had it been taken under a law of Congress. But he had not understood many objections had yet been made to it. Perhaps, on further examination, it will be found fully satisfactory; if so, they must be admitted to be a State as a matter of right. They might have waited longer, and attempted to have formed two States: they have made their election of the other alternative. He thought it wise for Congress to avail itself of this opportunity of holding them to what they have chosen, and thus prevent future difficulties and misunderstandings.

As to the objection that there are several things in the Constitution of Tennessee inconsistent with the Constitution of the United States, and with the ordinance for establishing the Territory, it is well known that as the Constitution of the United States, and the compact under which the Territory was settled, will be paramount, they can therefore have no effect.

Mr. W. SMITH said he was glad to find the observations which he made yesterday in some measure sanctioned to-day. He then recapitulated his leading arguments. It was said yesterday by a gentleman from Virginia, [Mr. MADISON,] that whilst the people of the Territory remained in their Colonial situation, they were in a state of degradation; but, he would ask, at whose request they became so? Look at their request in the year 1790, as expressed in the cession act. And yet, in the course of a few years, without consulting Congress, in consequence of a census taken by their own authority, they proceed to erect themselves into a State, create a new Government, and claim to be admitted into the Union as a matter of right. Under their former Government their member was admitted to that House; yet, whilst he holds his seat under that Government, they have appointed other members to represent them under their new Government. The most regular way would certainly have been to have transmitted their request to Congress to be formed into a State. Congress would then have passed a law for taking a census, have fixed when the Territorial system should cease and the State Government commence.

He thought the business was of considerable consequence, and he was sorry it was taken up in so thin a House. There would certainly arise in a few years other new States in the Western country yet uninhabited, which might occasion considerable difficulties. They might make a census, and say they had 60,000 inhabitants, when they had not half that number. He did not wish to keep the inhabitants of the Southwestern Territory out of the Union, but he wished them to be admitted in a Constitutional mode.

Mr. GALLATIN was of opinion that the people of the Southwestern Territory became *ipso facto* a State the moment they amounted to 60,000 free inhabitants, and that it became the duty of Congress, as part of the original compact, to recognise them as such, and to admit them into the Union whenever they had satisfactory proof of the fact.

It was objected that, previous to the proof of that fact being given, it was necessary that Congress should have laid out and formed that Territory into one or more States, and that the proof of their number should have been given under direction and by order of Congress, the people not being competent to give the proof themselves.

Both those objections supposes a construction of the original compact between the people of that Territory and the United States, (of the act of cession of North Carolina, and of the ordinance of Congress of 1787,) which was inadmissible; for it rendered that compact binding upon one party and not upon the other. It is supposed that that ordinance, whose object it was to establish the principles of a free Government, and to ascertain a certainty of admission into the Union, had declared that the time when those people were to enjoy that Government, and were to be admitted as a member of the Union, depended not on the contingency of their having 60,000 free inhabitants, but on certain previous acts of Congress—in other words, on the sole will of Congress. Either you must acknowledge that their admission depends solely on the condition of the compact being fulfilled, to wit: their having the number required; or you declare that it rests upon another act, which may be done or refused by the other party; that Congress have the power, by neglecting to lay them out into one or more States, or by refusing to pass a law to take a census, to keep them forever in their Colonial state. Nor did the strictest interpretation of that contract justify the construction given by the gentleman from South Carolina; for the only meaning that could consistently be given to the words, "lay out and form into one or more States," was, that Congress had power to fix the boundaries of the Territory or Territories that were to become a State or States. They could have declared that that Territory should be one or two States; but if they had neglected to do it, their omission could not be plead against the inhabitants of Tennessee. The power given by that clause to Congress was merely to fix boundaries, and to choose whether there should be more than one State; but if they

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had not made use of that power, there must be one State, and its boundaries were fixed by the act of cession, so that nothing remained now for Congress to operate upon.

There was nothing in the ordinance of 1787 which forbade the people giving proof of their number, without any previous act of Government. On the contrary, in a case of a similar nature with the present, to determine whether there were 5,000 free males, and whether, of course, the Territory was entitled to a Colonial Legislature, it was declared that as soon as proof should be given of that fact to the Governor, they should be entitled to their new form of Government; which expression left to the people a full power to give the proof themselves. He could have wished, indeed, that the census had been taken under a law of Congress; but it must be remembered that the law of the Territory of Tennessee, under which the present census had been taken, was acquiesced in by the Government of the Union: for upon that law both the Governor and Legislative Council of the Territory, both chosen by the General Government, had a negative; in other words, that law was our act as well as the act of the people of Tennessee; for it had passed by the joint consent of their and our Representatives. At all events, the neglect of Congress in not passing a law could not, in this case, nor in that of laying out boundaries, be urged as an argument against the admission of those people, unless, indeed, we meant to assume the imperious language of a Mother Country to her Colonies, instead of that of the Representatives of a free people to their fellow-citizens.

The objections made to the Constitution of Tennessee were, if possible, still more frivolous. It was said, that the omission in that instrument of certain restrictions upon themselves, which made part of the original compact of the ordinance of 1787, was a breach of that compact. With as much propriety could it be said that the omission in the Constitution of South Carolina, Pennsylvania, Delaware, or Georgia, (all of which were so formed after the adoption of the Federal Constitution,) of those clauses of the Constitution of the United States which imposed restrictions upon the several States was a breach of that Constitution; as if, in the latter case, the Constitution of the United States, and in the first, the Constitution and the ordinance of 1787, were less binding because not inserted in the individual Constitution, in the municipal law of the State.

The only question which, in his opinion, deserved consideration was, whether the proof given to them that there were sixty thousand inhabitants, was satisfactory. It appeared to him that there was a clause in the act for taking the census, relative to transient persons, which differed from that under which the census of the States had been taken, and which was liable to abuse. As that law, however, was acquiesced in by ourselves, the question was, whether it had been actually abused; whether there had been any fraud committed in taking the census. On this they had not a shadow of proof. The census bore on its face every appearance

of fairness, and the number of inhabitants therein returned so far exceeded sixty thousand, as fully to compensate for any possible error or abuse resulting from the clause he had alluded to. Another question, not then before them, would afterwards occur, relative to the number of Representatives that State should be entitled to. He would not now decide whether, in order to fix that representation, a new census, under the direction of Congress, would be necessary. This, however, was not the question before them, and on the present one he would vote in favor of the report of the committee.

Mr. BLOUNT said, there was an absolute necessity for the clause which the gentleman last up objected to. Persons were daily coming to that Territory in great numbers. If the census had been required to be taken in one day all the people who had come into the Territory, with intention to reside permanently there, could by no means have been numbered. It was not intended to give the officers power to take persons in more places than one, nor did he believe it had been done. He undertook to explain yesterday the reason why so long a time was given, but he seemed not to have been understood, which was, the difficulties attending the passage of the wilderness.

The gentleman from South Carolina [Mr. SMITH] had said, that his arguments of yesterday had been to-day admitted. If the gentleman had supposed that he had admitted them, he was mistaken. That he might not continue under the mistake, he would inform him, that what he had called arguments, were, in his opinion, mere quibbles, such as could only have been expected from a County Court lawyer, at the bar of a County Court.

Mr. CORR said, that as he had not heard it suggested from any quarter that it would be expedient to divide the Territory into two States, he did not think it important to inquire into the powers of Congress in that respect. It is declared by the ordinance for the government of the Territory, that when there should be sixty thousand inhabitants in any one of the States there they should be admitted into the Union. If, then, it is not in contemplation to divide the Territory into two States, he considered that the right to be admitted was complete as soon as there was the requisite number within the whole Territory. But it appeared to him, that on examining the census and the law under which it was taken, they could not be considered as furnishing proof that there was that number there. He did not pretend to say that any fraud had been committed in the execution of the law, but the law itself was wholly defective. The same man might have been counted in several counties, nay, in every county in the Territory, and that without any fraud, but in strict compliance with the law; two months having been allowed for taking the enumeration, and it being enjoined on the Sheriffs of the several counties to include in their enumeration all persons within their respective districts within that period.

The gentleman from North Carolina [Mr. BLOUNT] seemed to imagine that it would have been

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impracticable to have followed a mode similar to the one pointed out in the enumeration law of the United States, but he could not see the reason. [He read the law.]

That affixed a particular day to which the enumeration had relation, though a period of several months was allowed for taking it in. What had induced the people in the Southwestern Territory to adopt a different plan he could not say; but it was certainly liable to abuse, and the most faithful execution of it would furnish no proof of their numbers; he therefore conceived that the census was not to be relied on.

It appeared to him, that the only question was, whether they had such proof as it was reasonable for Congress to require, of the number of inhabitants? The ordinance said nothing about the manner in which the proof should be made out. The gentleman from Pennsylvania [Mr. GALLATIN] had referred to another part of the ordinance to establish a rule for this case. The ordinance in the case alluded to, where proof was to be made to the Governor of a certain fact, had left it to him to determine what proof was sufficient, and he thought most clearly, in this case, the proof must be to the satisfaction of Congress, to whom it was to be made, and that it would be absurd to suppose them bound to accept as satisfactory such proof as the people in the Southwestern Territory were pleased to give.

Mr. SITGREAVES said, he felt every disposition favorably to meet the wishes of the people of the Southwestern Territory, and for a reason which had been given, viz: that, as they were our fellow-citizens, it was desirable they should equally participate with us in all the advantages of the General Government, and suffer no longer than was necessary the comparative humiliation of a Colonial or Territorial administration; but, from obvious considerations, he thought it highly important that they should be admitted to the enjoyment of these advantages only in conformity with the promise made to them, and on the terms of the compact entered into jointly by the United States and by them. Two constructions of this compact had been contended for; one, that so soon as sixty thousand free inhabitants should be collected within the Territory, they should be entitled to a place in the Union, as an independent State; the other, that Congress should first lay off the Territory into one or more States, according to a just discretion, defining the same by bounds and limits; and that the admission of such States, thus defined, should take place as their population respectively amounted to the number of free inhabitants mentioned; that is, that the sixty thousand inhabitants could not claim admission into the Union, unless their number was comprised within a State whose Territorial limits had been previously ascertained by an act of the United States. He inclined to this latter construction, because it was conformable to the letter, and, as he understood it, to the spirit of the instrument. By the act of cession of the State of North Carolina, accepted by Congress, it is provided that the ceded Territory should be laid off into one or more States, and that the people of

the Territory should be entitled to all the privileges secured to the inhabitants of the Territory Northwest of the Ohio, by the ordinance of 1787. The extent of their privileges, therefore, is to be determined by this ordinance, which may be called their charter. They have no other or greater privileges than the inhabitants of the Northwestern Territory; and it cannot be pretended that these would be entitled to admission into the Union as one State, so soon as their whole number shall amount to sixty thousand, because the ordinance itself divides that country into three separate and distinct States, each of which must contain sixty thousand free inhabitants before it can claim to be received. The actual circumstances and situation of the Southwestern Territory evinced the reasonableness and propriety of this construction; it is composed of two settlements, the Holston and the Mero districts, separated from each other by the Cumberland Mountain and a wilderness of two hundred miles in width, which has always been inhabited by the Indians, and the soil and jurisdiction of which have been actually ceded to them by the United States, by late Treaties; and by an examination of the documents on the table it would appear, that when, agreeably to the act of the Territorial Legislature, the officers who took the census put to the people of the Territory the question whether they were desirous of admission into the Union? the inhabitants of the Western or Mero district almost universally answered in the negative. He would not undertake positively to pronounce on the expediency of forming the whole country into one State; but, under the circumstances which he had stated, and until they should be satisfactorily explained to his mind, it did appear to him that the interest and the wishes of that people required a division of the Territory. It looked somewhat absurd to connect under one permanent Government, people separated from each other by natural barriers, by a distance of two hundred miles, and by a foreign jurisdiction. They had been told, by gentlemen who knew the fact, that during the period of Indian hostility, the people emigrating to the Mero district were obliged to stop five or six weeks at the Eastern boundary of the wilderness, until they could collect in companies or caravans of sufficient number and force to pass in safety; the time of hostility may again return, and even a state of peace with Indians is not a state of such tranquility or security as to preclude the necessity of caution and vigilance on the frontiers. The people of the Western district seem sensible of the inconvenience of an arrangement so unnatural as the one proposed, and so far as their wishes can be collected from the documents before the committee, they desire as yet to preserve their connexion with us in its present mode, and to remain under the Territorial Government.

But it had been said by his colleague, [Mr. GALLATIN] that if this construction was the true one, it was in the power of Congress forever to keep this people out of the Union; that by neglecting or refusing to lay off the Territory into a State or States, they might forever preclude its

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inhabitants from admission into the Government, let their numbers be ever so large. Mr. S. on his part, admitted, that if this objection was founded, it ought to have weight; but nothing, he conceived could be more fallacious. In all compacts between a nation and a part of its citizens, the physical power, it is true, resides with the nation, and there is no other security for the other contracting party but the obligations of good faith and the integrity of the Government. In this view, his colleague's objection would apply to every possible contract to which the nation should be a party; even on his own construction of the instrument, a resolution or act of Congress, of some kind, is supposed to be necessary before the people of the Southwestern Territory can be admitted to a share of the national representation; by withholding this act, be it what it may, the privilege could be defeated; and thus the objection may be retorted on the gentleman who uses it. But admitting the obligation of the Government to perform its engagements with fidelity, and its disposition to do so, no such objection can grow out of a fair construction of the compact. The ordinance of 1787, and the act of 1790, both direct that a State or States shall be laid off. This mode of expression imposes an essential obligation on the United States; it does not leave them authority to refuse; it gives a discretion only as to the time and manner of laying off the country; this discretion must necessarily be vested somewhere, and it is placed where it cannot be supposed that it will be abused.

There is, in truth, no such intention to delay, on the part of the Government, whatever shall be necessary to meet and to gratify the just wishes of the people of the Territory; the only dispute is as to the mode of doing the business and of collecting the evidence of the necessary facts. It is one question whether the Government or the United States shall ascertain the existence of the prerequisites by a process of its own, executed under its own authority, or whether it shall take upon credit the evidence furnished by the Territorial Government? It is admitted on all hands, that, to justify the claim of those people as a matter of right, 60,000 free inhabitants must inhabit the Territory; is there then satisfactory proof that there is this number of inhabitants? It had been contended by his colleague [Mr. GALLATIN] that the proof ought to be satisfactory, because it had been ascertained by the same authority which, as to a purpose supposed to be analogous, had been prescribed by the ordinance itself. By the provisions of that instrument, the administration of the Territory was to be strictly Colonial, by the Governor and Judges, until there should be within it 5,000 free male inhabitants of full age; at which period, the people were authorized to choose a Territorial Legislature, and the proof of the necessary number was to be made to the Governor of the Territory. Hence it is inferred, that proof made to the Governor, and to his satisfaction, which is sufficient for one change in the Government, ought to be held sufficient for the other change contemplated by the same ordinance. This

inference, he contended, was incorrect. The effect produced by the first change, acts only upon the people of the Territory; it regulates only the mode of enacting their internal municipal regulations; it is an affair in which the United States have no interest, and no concern; it was therefore perfectly just that the evidence of the fact should be ascertained by the people who alone were to be affected by it; but to the consequences of the second alteration in the Government, the United States are also a party, and a party essentially and importantly interested. When the inhabitants of that Territory claim an equal share in the administration of the General Government, it is certainly reasonable that the General Government should be satisfied, by means known to its Constitution, of the evidence on which this claim is founded. Accordingly a repetition of the expression relied on is carefully avoided in that part of the ordinance which relates to the admission of the Territory into the Union; this difference was certainly not without a meaning, and the true inference is that, in the last case it was intended the census should be taken by the authority of Congress, and not as in the former case by the authority of the Territorial Government; the census in the original States is taken at the periods prescribed by the Constitution, by the authority and by the officers of the United States, and there can be no reason for distinguishing the case of the Southwestern Territory, or entitling them to a representation upon easier or more favorable terms.

But it had been contended by a gentleman from Virginia, [Mr. NICOLAS] that as the act for the government of this Territory did not divide it into more States than one, as was done in the ordinance for the government of the Northwestern Territory, it resulted that Congress had made their election, had exercised the discretion given to the United States by the act of cession, and by declining to lay it off into several States had established it as one. This conclusion could not be justified, either by the words of the act, or by the example of the ordinance. The act is avowedly and expressly made for the purpose of temporary Government only; and it was a fact of which the gentleman from Virginia needed not to be told by him, that the division of the Northwestern Territory by the ordinance of 1787, was as yet incomplete, and that its operation as to this purpose depended altogether on an act to be done, but not yet done, by the State which that gentleman represented, to wit: a partial repeal of their act of cession. Mr. S. said, he could not see where the doubt resided. The cession of this Southwestern Territory, made by North Carolina and accepted by Congress, directs, as he had before observed, that the ceded country should be laid off in one or more States. He asked if this had been done? If it had not been done, did it not remain to be done? The course was extremely clear; a State must be formed; and afterwards when that State shall contain 60,000 free inhabitants, and this fact shall be properly ascertained, it shall be received into the Union, and not before.

He did not think that by contending for these

principles, he should materially delay the gratification of the wishes of these people. He certainly did not wish it. But we are treading on new ground; and it ought to be cautiously explored. In admitting this country to a share in the General Government, we are forming a precedent for many future cases, and which may be hereafter of the most important effect on the national interests and happiness; it therefore behoved them well to consider the subject. By adopting the mode suggested by the gentleman from New Jersey [Mr. DAYTON] or something like it, this State might still be organized in time for a representation in the next Congress; no outrage would be done to the provisions of the ordinance, and the hazard of establishing a dangerous precedent would be avoided.

Mr. MACON said, he should be as unwilling to agree to the doctrine of the gentleman from New Jersey, [Mr. DAYTON] as he was unwilling to agree to his. As to the people of this Territory attaching themselves to any other nation, he should not have thought it could have been suggested. There was no more likelihood of their going over to any other Government, than there was of any other State doing the same thing.

Mr. GALLATIN said, how the resolution on the table, or the doctrine he had asserted, supported the idea that that Territory would have a right to separate from the Union, he could not see, and he should be glad to be informed. So far from it, his opinion was, that if they were a State, they were at the same time a member of the Union; that they could not exist as a State without being one of the United States. The only difference of opinion was whether an act of Congress was necessary previous to their being recognised as such; and if any doctrine could lead to the conclusion of the SPEAKER, it was that of those gentlemen who thought that Congress must form them into a State, several months before they were admitted into the Union. In that intermediary situation, whilst declared a State and not one of the United States, they might, perhaps, claim, as an independent State, a right to reject an admission in the Union. But those consequences could only flow from the doctrine he was combatting; the principle he was supporting was that no previous act was necessary, that there could not be two acts upon the subject; but that one and the same act must recognise them as a State and admit them in the Union.

Mr. HARPER said, it was for the most part wise to avoid the discussion of strict right, where considerations of expediency might furnish sufficient grounds of decision. There were doubts existing as to the right of the people of this Territory to be admitted into the Union. He had himself entertained doubts on that subject, and he had heard nothing by which they could be removed. If, then, it should be found that on principles of expediency the House ought to gratify their wish of becoming a State, why entangle itself in the discussion of a difficult and perplexing question of strict right? He wished to avoid it, and to that end, was desirous that the resolution proposed by

the gentleman from New Jersey should be adopted. That resolution would attain the object, without deciding any principle. When he had the honor of addressing the Committee before on this subject, he had given it as his opinion that the people of this Territory ought to be admitted into the Union, not because they had a right to it, for that was doubtful, but because they wished it. He was still of the same opinion. As to the evidence which they produced of their numbers, he still thought it liable to doubt; and, whilst it was allowed on all hands that they had taken this evidence without the least intention of giving room for abuse, yet, it being evident that abuse might exist, it ought to be guarded against.

In the law proposed to be passed, every regulation necessary for establishing the principles on which States should hereafter be admitted into the Union, might be included. By this method all difficulties might be avoided, and the reasonable wishes of the people in that part of the country might be gratified without a violation of any principle, or the discussion of any doubtful question. He should, therefore, vote against the resolution of the select committee, in order, if it were rejected, to introduce that proposed by the gentleman from New Jersey, which he thought calculated to attain, in a less exceptionable and more effectual manner, the same desirable end.

Mr. BLOUNT hoped the original resolution would not be rejected for the sake of the gentleman from New Jersey. He did not wish to give up the right to which these people were entitled; though perhaps the law might not pass the Senate.

Mr. HARPER objected to the mention of the Senate, as to what was likely to be done there. He hoped they should adopt the resolution of the gentleman from New Jersey.

The question was then taken on the original resolution reported by the select committee, and carried by 41 to 35.

The Committee rose and the House took up the consideration, when Mr. KITCHELL proposed a resolution in the place of that which had been agreed to in a Committee of the Whole, as he thought some law should be passed by Congress recognising the Territory as a State, before they were admitted into the Union. It was negatived; and the original resolution was agreed to by 43 to 30, as follows:

YEAS.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Thomas Claiborne, John Clopton, Jeremiah Crabb, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Andrew Gregg, Wade Hampton, Robert Goodloe Harper, Carter B. Harrison, Jonathan N. Havens, Daniel Heister, James Holland, George Jackson, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, Andrew Moore, Anthony New, John Nicholas, Alexander D. Orr, John Page, Francis Preston, John Reed, Robert Rutherford, Israel Smith, Richard Sprigg, jr., Thomas Sprigg, Absalom Tatam, Philip Van Cortlandt, and Abraham Venable.

NAYS.—Benjamin Bourne, Theophilus Bradbury,

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Gabriel Christie, Joshua Coit, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Roger Griswold, Thomas Hartley, Thomas Henderson, James Hillhouse, Wm. Hindman, Aaron Kitchell, George Leonard, Samuel Lyman, Francis Malbone, Theodore Sedgwick, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, George Thatcher, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

SATURDAY, May 7.

The SPEAKER presented resolutions and a petition from Huntingdon county, in favor of the Treaty. Some debate took place upon the propriety of receiving the resolutions, on account of their being said to contain a censure on the proceedings of that House; they were read, the sense of the House was taken, and they were rejected. The petition was then laid upon the table.

The bill for the relief of Sylvanus Bourne was read a third time and passed.

A bill to regulate compensation to clerks, and a bill to regulate quarantine, were twice read and referred to a Committee of the Whole.

Mr. S. SMITH laid a resolution upon the table, putting all nations upon the same footing, with respect to the selling of vessels and goods within the ports of the United States, by recommending it to be enacted, that no nation shall be allowed in future to sell their prizes within the United States.

A message was received from the Senate with the bill authorizing the sale of lands Northwest of the river Ohio, with several amendments thereto. The amendments were read and referred to a select committee.

The House resolved itself into a Committee of the Whole upon the bill for laying certain duties on carriages and for repealing a former act for the same purpose, which being gone through, the House took it up, and it was ordered to be engrossed for a third reading.

Mr. SITGREAVES, from the committee to whom was referred the memorial of certain creditors of the French Republic, residing in Philadelphia, reported that they found the extent of the claims of the memorialists sufficient to entitle them to the interference of Congress; but, as the session was drawing to a close, the select committee wished to be discharged from further consideration of the memorial, and that it might be referred to the Secretary of State, to report thereon, at the next session of Congress. The report was twice read and agreed to.

The House resolved itself into a Committee of the Whole, on the bill for authorizing Ebenezer Zane to locate certain lands Northwest of the river Ohio. After some debate thereon, in order to give time for making some inquiries on the subject, the Committee rose, and had leave to sit again.

MONDAY, May 9.

Mr. W. LYMAN, from the committee appointed to take into consideration the situation of forti-

cations and harbors, &c., of the United States, make a report; which was twice read and referred to a Committee of the Whole.

Mr. MURRAY presented a petition from Harrison and Sterrett, of Philadelphia, in behalf of James Swan, of Boston, respecting a bill of exchange for 120,000 dollars, drawn on Dellar, Swan and Co., of Paris, which had been transmitted by the Secretary of the Treasury, at Philadelphia, to Mr. Monroe, the American Minister at Paris, who was to transmit the amount when received to the banker of the United States at Amsterdam, which sum had been duly paid to Mr. Monroe, but which the Secretary of the Treasury here refused to pay, until he had information of the amount being received at Amsterdam; the memorialists pray relief of Congress. The petition was referred to the Committee of Claims.

The bill laying certain duties on carriages, and for repealing the former act for that purpose, was read a third time, the blanks filled up, and passed. [Coaches which before paid ten dollars a year, are advanced to fifteen, chariots from eight to twelve; coaches with pannels, from six to nine; coaches without pannels, (a description not in the former law,) six dollars; curricles, chairs, &c., advanced from two to three dollars; two-wheeled carriages, of an inferior kind, advanced from one to two dollars a year.]

Mr. BOURNE reported a bill for altering the Circuit Courts in Vermont and Rhode Island; which was twice read, and ordered to be engrossed for a third reading.

Mr. GOODRICE made a report respecting an increase of the salary of the Accountant General; which was laid upon the table.

INCREASE OF SALARIES.

Mr. S. SMITH called up the resolution laid upon the table, respecting an increase of salaries of certain public officers for the year 1796.

Mr. MACON objected to passing this resolution at the present time. If it was necessary the salaries should be advanced, it should be done in a full House. He believed the officers of the Federal Government were better paid than the officers of the State Governments. He should wish the subject to be postponed until the next session of Congress.

Mr. S. SMITH thought it was necessary to attend to the subject at present. He stated what the salaries were at present. The Secretary of State and the Secretary of the Treasury had each \$3,500; the Secretary of War \$3,000; the comptroller \$2,650; the Auditor, Treasurer, and Commissioner of Revenue, each \$2,400; the Register \$2,000; the Attorney General \$1,900; and the Purveyor \$2,000. Gentlemen must know that the advance of house-rent and living were vastly increased since the settlement of the above salaries. Any of these officers must pay from \$600 to \$1,000 for rent alone; they knew pretty well what the expense of living was at present in Philadelphia, and must see that it was impossible that their officers could live upon the above sums. If they have no fortunes of their own, they must

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consequently involve themselves in debt. It may be said, those who do not think the salaries sufficient may resign, and others could be got. He believed persons might be got to supply the places of any gentlemen who might resign; but, before they had been long in their situations, they would find the expense of living so much greater than they expected, that they would find it necessary to resign. None of the public officers were permitted to engage in any business except the Attorney General, and the duties of his office almost wholly employed him.

He was acquainted with the expenses of living at Baltimore. He found his expenses exceeded anything contemplated to the highest officer by this bill, and he was not an extravagant man. Gentlemen accustomed to live on their own farms, were not judges of the expense of living in a city. Was it not degrading, he said, that their officers, who were in the habit of receiving civilities from citizens and foreigners, had it not in their power to return them?

There was not an officer who could afford to keep a horse out of his salary. He felt it necessary to apologize to those gentlemen for thus speaking; but every one must see what he asserted was true. He hoped we would not expect that gentlemen, whilst doing the business of the public, should spend their private fortunes. When the price of living should be lowered, the advance which was now proposed upon their salaries would discontinue, or it would be observed that the bill was for the present year only. The gentleman from North Carolina objected to the business being taken up at the present late period of the session. He must recollect that something of the sort had been brought forward at its commencement, without success. The necessity of the advance must be so apparent, that he trusted there would be an unanimous vote upon the occasion.

Mr. NICHOLAS was not against advancing the salaries of their officers, if necessary; but if he thought it necessary, he would begin with those officers who received the least, with men who had equal labor, but who did not receive half the money. He had had some experience of the price of living in Philadelphia, and from what he had been able to do with six dollars a day, he thought a family might live genteelly and comfortably on ten. If these, then, were extremely expensive times, and ten dollars a day would maintain a family, why increase the salaries of those officers who had already that sum? As to a temporary or permanent advance, he looked upon it as the same thing; for, a salary once being given, was sufficient reason for continuing it. He voted against the former proposition for the same purpose, and he should vote against this.

Mr. W. LYMAN said, if the resolution went no further than its proposed object, it would not have been worth taking up the time of the House to oppose it; but it must be obvious, that if the resolution should pass, it held out an invitation to every officer in public employ, from the highest to the lowest grade, to come forward for additional

compensation. Their application might be supported by the same reason and argument—the enhanced price of living, or the reduced value of money. They were indiscriminately applicable to every part of the United States. Were gentlemen really to meet the question upon this extensive ground, and to say that every officer of Government, whether civil or military, should have an additional allowance? He presumed not. It was true, he said, that articles of living were much enhanced in their price, but this was only a temporary effect incidental to the war in Europe, which would probably terminate in a little time, and the effect would cease with its cause. The members of the Legislature, the present session, fixing their own compensation, had not been influenced by any temporary considerations; there had not been even a wish expressed by one member that their pay should be raised; some gentlemen, indeed, had signified desires it might be reduced from six to four dollars a day. After this disinterested example themselves, the House could, with a good grace, refuse to raise the salaries of their officers. If some of them made sacrifices to the public, the members of the Legislature did the same. If it was patriotic in one case, it was equally so in the other; but whether it was necessary to make higher compensation or not, the question ought not to be taken up partially, but generally; for no gentlemen had suggested that the ratio heretofore established, was improper and inadequate; not one argument had been offered from that source. Mr. L., therefore, hoped the resolution would not be agreed to. It appeared to him to partake too much of local affection and regard, and too little of the generality of consideration with which a Legislative body should always be actuated. He was prepared for it with his negative, and trusted that, if it should pass the House, it would not be equally successful, on a further revision of the subject, in the Senate.

Mr. GOODRICE said, they ought not to compare the officers of Government with themselves; because they make sacrifices of their individual interests for the public good, it was no rule their officers should do so. There was a certain degree of honor and patriotism which was dearer to them than any pecuniary pay; but their officers ought to be paid the full value of their services. They might drive them out of office, and he doubted not they might find others to fill them; but if they did not offer sufficient compensations to their officers to invite persons of ability from distant parts of the Union, their offices would all of them be filled with Philadelphians. Not one of their officers could do more than barely live, so that if any of them have families they will not be able to save anything for their children. This held out poor encouragement to men of talents to engage themselves in the service of the public.

Mr. HEATH spoke in favor of the resolution.

Mr. GILES said, he should vote for the resolution, not because our Government would be destroyed if the salaries of our officers were not advanced; he believed our Government stood upon a much firmer basis than gentlemen would have

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it supposed. He thought this cry of dissolution of Government was carried to a ridiculous height. He should vote for the resolution, because there had been a considerable increase in the price of living, and because he supposed when the sums were originally given, they were not more than reasonable. He should, therefore, for that simple reason, vote for it. Not because any particular gentleman intended to resign if his salary was not advanced; because, if any of their officers chose to resign, he doubted not they should be able to supply their place with men of equal value. He did not like the form of the resolution. He did not like the per centum rate. It was his opinion the proposition was not just. He thought the Attorney General, for instance, had not sufficient salary. It was true, he was allowed to practice, but his office allowed him but little leisure for other business, and his duties were continually on the increase. He wished, therefore, that a specific sum should be given to each officer.

Mr. GALLATIN said, the reason alleged for the proposed increase in salaries, was the increased expense of living in this city. If this was true with respect to the officers here mentioned, it was true with respect to all. Then why was the provision made for these particular officers, and not for others? They were all equally entitled to the advance, unless it was said the others were in establishments less expensive. He moved an amendment to this effect: "and all the officers of Government whose duties require them to live in Philadelphia."

Mr. S. SMITH said, when he submitted the resolution to the consideration of the House, he had the same views with the gentleman last up, and he believed he had included every one. The Accountant General was meant to be provided for specially. He did not know of any other public officer but the Postmaster General. The salaries of the clerks had been raised from time to time.

Mr. MURRAY said, he did not know but that the officers of Government in large cities generally, had occasion for an advance in their salaries; yet, certainly there were many considerations respecting the Heads of Departments, who were obliged to reside here, that did not apply to inferior officers in other large cities. The Heads of Departments are to be considered, as they really are, an administrative part of the Government. Much, he thought, of the respectability of Government itself depended upon the manner, mode of life, and general deportment of those who administered it. The world was not a philosopher, it regulated much of its respect by exterior appearances, and to insure that to a certain degree, it was necessary to enable the great officers of administration to appear with respectability in the world's eye, without forcing them to ruin themselves by intrenchments upon their private fortunes, at the period when, by the laborious duties imposed, as well as by legal restraints, they are prevented from engaging in other modes of industry. When you engage for labor, for talents, and integrity, at least you should pay the wages

of labor without grudging. But, in fact, there is not a Head of a Department who could not, by a devotion of his talents and weight of reputation in private industry, insure to his family double the income that the scanty spirit of Government allots him. It may be asked, why do they accept? A generous ambition to do great services was a passion to which, he believed, we were indebted for the acceptance of any high office under our Government. This was a passion natural to better minds. This House should take care that this passion should not ruin those who feel it, and exert it in the public cause. To permit this, would be a sort of seduction. The United States have at present able and honest men in the administration; such, and such only, ought to be kept there; but they should find it a situation which, as fathers of families, it should not be imprudent to keep. For his part, he thought it almost impossible to attract talents and integrity into a Government like ours, at too high a pecuniary price. They ought to be invited, not repelled.

Mr. MACON considered an agreement to the proposition before them, as the beginning of an advance of salaries of Governmental officers from one end of the Continent to the other. As the House had refused to go into this business when brought before them early in the session, he hoped they would now do so. If such a regulation was proper at any time, it was then proper. Nor did he think there was any more reason to advance the salaries of their officers in Philadelphia than there was for the advancement of salaries in every large city in the Union.

Mr. GILES was inclined to favor the resolution under discussion; but if the vote was to be taken upon the principles of the gentleman last up, he should oppose it. He did not think the high wages of the officers of our Government was to make it respectable; for if it was to be respectable in proportion as it was expensive, it was far behind-hand when compared with the Governments of Europe; therefore, if expensive salaries could alone make our Government respectable, he believed we had better forego that respectability. There was another principle which he objected to, that they were to make provision for the children of their officers. He wished to vote for the resolution upon the principle of justice, and upon no other; but if the respectability of our Government, or fortunes for the children of our officers were to be considered, he should vote against it. He was not willing to give more for the transacting of any business than it was really worth. To what extent would such a doctrine go? The argument would be just as good next year as this. No gentleman would be satisfied with a small degree of respectability. He wished, if any increase of salary were to take place, it should be on the ground of the increased price of provisions.

Mr. KITTERA said, it must be allowed that there was a difference betwixt officers residing in New York, Boston, Baltimore, &c., and those residing at the seat of Government. The former were with their friends, but the latter had quitted their homes and subjected themselves to a very expen-

sive living in Philadelphia. He thought there was a wide difference between them.

Mr. MACON said, if the doctrine of the gentleman was true, it would only relate to part of the officers.

Mr. S. SMITH said, even the weigh-master in Baltimore had a higher salary than any officer in the Federal Government.

The amendment was negatived.

The Postmaster General was moved to be added, and agreed to.

Mr. GILES moved to strike out the words per centum.

Mr. CHRISTIE was in favor of the motion. He did not think the salaries equally apportioned.

Mr. FINDLEY did not know that they had now time to go into the subject of equalizing the salaries of their officers. He should, however, be for striking out the per centage. He would have their officers paid well but not extravagantly.

Mr. SWANWICK was rather in favor of the resolution; yet, as this was to be only a temporary consideration, he would submit it to gentlemen whether it would not be better to preserve the plan of so much per cent. on the present salaries. He thought it would have less the appearance of permanency. They were not about to go into the inquiry how far the salary of each officer was apportioned to his services, but merely to make an allowance for the present year on account of the advanced price of living; and he thought, on that account, the per centum plan the best.

Mr. HARTLEY said the gentleman from North Carolina [Mr. MACON] had asserted it was indifferent to him from what part of the Union persons came who filled the offices of Government. He wished every gentleman could say so. When the salaries of the officers were settled, the men who were to fill them were not known, and therefore, they were settled according to what they were really thought to be worth; but, if they took the mode proposed by the gentleman from Virginia, it would be next to impossible to avoid favoritism, besides that, a review of all the salaries would require time. In appointing their officers, the President had been as impartial as possible; he had endeavored to select them from every part of the Union; but if the salaries were not increased, persons who reside in Philadelphia, and have their friends about them, must be chosen; and if so, he hoped gentlemen would not complain that the State of Pennsylvania was too highly favored. He hoped the resolution would be retained in its present form.

Mr. VENABLE said, he should be opposed to the per centum plan; for the salaries being at present out of proportion, it would increase that difference which was already too great. If it was merely an increase on account of the increased price of living, let a specific sum be added to each salary for the present year, and the salary would then stand as before. He could not vote for the per cent. advance, but would support an equitable addition.

Mr. CHRISTIE spoke to the same effect.

Mr. SITGREAVES wished the per centum to be

struck out, to vote for the general principle of an advance, and afterwards determine upon the best method of doing it; it was of importance that the principle should be settled.

The motion was put and carried.

Mr. SITGREAVES continued his observations. He said, if there was any one principle upon which his mind reposed itself with more than ordinary certainty of conviction, it was, that the real interest of the country, and the truest economy consisted in the allowance of, not merely adequate compensations to their public officers. He certainly hoped, therefore, that the resolution would prevail. If the members had felt scruples about advancing their own wages—and he had no hesitation in saying, he did not think they had allowed themselves enough, nor did he wish to shrink from the responsibility attached to this opinion—he hoped they would not suffer this delicacy, which, when applied to themselves, might be amiable, to influence their decisions on the compensations of others, or operate to prevent a reasonable addition to the established salaries of the other departments.

It had been said, that the respectability of Government was not all connected with, or dependent on the allowance made for the service of its officers. He could not concur in this sentiment. He believed that no Government could be respectable which was not respectably administered; and the respectability of the administration certainly depended on the employment of men of competent talents and information; these could not be obtained but by holding out encouragement to tempt them to engage in the public service. If gentlemen can derive more income from pursuits of private occupations, they will be induced by the most powerful motive of human conduct to give such a direction to their industry and abilities; there was something in the honor of public stations, gratifying, it is true, to ambitious minds; and which will have its estimation with men of a certain disposition; but this honor may be rated too high; and care should be taken lest, by creating too great difference between the emoluments of public, and the gain of private life, men of superior acquirements should be discouraged from devoting them to the service of their country. These observations, he thought, were peculiarly applicable to the persons requisite to fill higher departments. He did not think the pay of these officers should be measured by the mere labor of their employments; but should be proportioned to the knowledge, the skill necessary for the administration of such important trusts; and above all, to the responsibility of their official situation. All things considered, and in order to allure men of talents to the public service, he hoped these sentiments would be generally concurred in; they were his, and he desired to bear his testimony as solemnly as the occasions would permit.

Mr. W. SMITH said, that as long ago as the year 1787, when the expense of living was not half as high as at present, and when the finances of Government were considerably deranged, and Congress thought it necessary to make a serious

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Increase of Salaries.

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reduction of expense wherever it could be done, yet they would find, that the salary of the Secretary of the department for Foreign Affairs was the same as now. [Mr. S. read an extract from the Journals of 1787 to corroborate his assertion.] This was of itself sufficient to show the necessity of an increase at present.

Mr. FINDLEY said, there was a difficulty, if they did not extend the advance to all their officers, where to draw the line.

The question on the resolution was put and carried, there being fifty-five members in favor of it.

The Committee then rose, and the House took up the consideration of the resolution.

Mr. LOCKE thought this resolution would have a very bad tendency, and would be unfavorably received by the people. He was opposed to it, and should wish the sense of the House to be taken upon it by the yeas and nays.

The question for which being put was carried.

Mr. GILLESPIE observed, that it was alleged that this addition to the salaries of their officers was owing to the advance which had taken place in the price of living, since their salaries were fixed. If it were so, he thought the Purveyor of Public Supplies should be struck out, as that officer had not been long appointed. He made a motion to that effect, which was negatived.

The yeas and nays were then taken on the resolution, which passed—yeas 51, nays 34—in the following form:

Resolved, That there be allowed and paid, for the year 1796, to the Secretaries of State, Treasury and War Departments, Treasurer, Comptroller, Auditor, Register, Commissioner of Revenue, Purveyor, Attorney General, and Postmaster General, —, in addition to their respective salaries."

The yeas and nays being demanded by one-fifth of the members present, were as follow:

YEAS.—Fisher Ames, Abraham Baldwin, Benjamin Bourne, Theophilus Bradbury, Gabriel Christie, Joshua Coit, William Cooper, Jeremiah Crabb, George Dent, William Findley, Abiel Foster, Dwight Foster, Ezekiel Gilbert, William B. Giles, Nicholas Gilman, Henry Glen, Benjamin Goodhue, Chauncey Goodrich, Roger Griswold, William B. Grove, Carter B. Harrison, Thomas Hartley, John Heath, James Hillhouse, William Hindman, John Wilkes Kittera, George Leonard, Samuel Lyman, James Madison, Francis Malbone, John Milledge, Andrew Moore, William Vans Murray, Alexander D. Orr, John Page, John Reed, Robert Rutherford, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, Samuel Smith, William Smith, Thomas Sprigg, John Swanwick, George Thatcher, Uriah Tracy, John E. Van Allen, Abraham Venable, Peleg Wadsworth, and John Williams.

NAYS.—Theodoros Bailey, Lemuel Benton, Thomas Blount, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Thomas Claiborne, John Clopton, Isaac Coles, Samuel Earle, Jesse Franklin, Albert Gallatin, James Gillespie, Christopher Greenup, Andrew Gregg, Wade Hampton, George Hancock, John Hathorn, Jonathan N. Havens, Daniel Heister, Thomas Henderson, James Holland, George Jackson, Aaron Kitchell, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, Anthony New, John Nicholas, Francis Pres-

ton, Israel Smith, Richard Sprigg, Jun, and Absalom Tatom.

A committee was then appointed to bring in a bill.

A communication from the Treasury Department was received, enclosing the Treasurer's accounts of receipts and expenditures in the War Department for the quarter ending in March last, which was read and ordered to be printed.

Mr. W. SMITH said, as it was near the hour of adjournment, he should move that the House resolve itself into a Committee of the Whole on a secret communication from the President relative to the Treaty with Algiers; which had before been partly considered, and the galleries were accordingly cleared.

TUESDAY, May 10.

Mr. S. SMITH reported a bill for making an addition to the salaries of certain public officers for the year 1796; which was twice read and ordered to be committed to a Committee of the Whole tomorrow.

A communication was received from the Attorney General, enclosing a report upon the petition of sundry inhabitants of St. Clair, against the oppressive conduct of Judge Turner, which recommended a certain mode of prosecution. The report and other papers were referred to a select committee.

The bill altering the time of holding the Circuit Courts of Rhode Island and Vermont, was read a third time and passed.

Mr. TRACY from the Committee of Claims, made a report upon the petition of certain Stockbridge Indians for compensation for services during the war with Great Britain, which was against the petitioners. Agreed to.

He also made a report on the petition of John Montgomery and Thomas Smith, executors of the late General Richard Butler, who was killed in a battle with the Indians on the 4th November, 1791, and left behind him a widow and children; the report was in favor of the petitioners, and recommended the act of June 7, 1794, to be extended to this claim. Mr. T. observed, that this case had been before determined upon on a petition from the widow Butler; that a bill had passed that House, but had been negatived in the Senate. He doubted not, therefore, the report would be agreed to. It was ordered to be referred to a Committee of the Whole.

Mr. SWANWICK presented a petition from sundry officers in the late war, holding military warrants, praying that land might be appropriated, upon which to locate their warrants in place of that ceded to the Indians by Treaty. It was referred to the committee who had the management of that business.

The House resolved itself into a Committee of the Whole, on the bill authorizing Ebenezer Zane to locate certain lands Northwest of the river Ohio; which, after a few amendments, was agreed to, taken up in the House, and ordered to be engrossed for a third reading.

The Committee of the Whole, to whom was referred the bill relative to military lands, was discharged, and the bill was recommitted to a select committee.

SALE OF PRIZES.

Mr. S. SMITH wished the House to take up the resolution, which had been laid upon the table on Saturday, relative to the sale of prizes in the ports of the United States. It was accordingly taken up. Mr. S. said, his intention in bringing forward this resolution was to put all nations upon the same footing with respect to selling of prizes in their ports. By our Treaty with Great Britain, prizes taken from that Power by the French were prohibited from being sold in our ports; and in our Treaty with France, a similar stipulation was made with respect to French vessels taken by the English; but in case a war should take place between Great Britain and Spain, there was at present no regulation to prevent Great Britain from bringing Spanish prizes into our ports. By the law which he proposed he meant to deny the privilege of selling prizes in our ports to all nations, as the best way of steering clear of offence to any, and thereby preserve our neutrality inviolate. After some little opposition, on the ground of its being a measure not at present called for, but might be entered into when such a war as was anticipated should take place; that it was giving an advantage without reciprocity; and that the French, having heretofore had the privilege of selling their prizes in our ports, the stoppage of that privilege might give offence to them—it passed by a large majority, and a committee was appointed to bring in a bill.

A bill was subsequently reported, which was read the first and second time, and committed to a Committee of the Whole.

Mr. W. SMITH, from the committee to whom was referred the amendments of the Senate to the bill for the sale of lands Northwest of the river Ohio, made a report, recommending the amendments to be agreed to, and proposing some additional ones. They were ordered to be printed.

TREATY WITH ALGIERS.

The House, according to the order of the day, again resolved itself into a Committee of the Whole House on the report of the Committee of Ways and Means, of the eighteenth ultimo, relative to a further provision for foreign intercourse; and came to the following resolutions, which were severally twice read, and agreed to by the House:

1. *Resolved*, That the sum of two hundred and sixty thousand dollars be appropriated, in order to carry into effect any Treaty already made, and enable the PRESIDENT to effect any Treaty or Treaties with any of the Barbary States.

2. *Resolved*, That — dollars be appropriated for foreign intercourse, in addition to the sum of forty thousand dollars, annually appropriated for that purpose.

3. *Resolved*, That the sum of four thousand five hundred and thirty-nine dollars and six cents,

be appropriated to reimburse the sums advanced by Captains Colvill and Burnham, for their ransom from captivity in Algiers.

Ordered, That a bill or bills be brought in, to continue in force the act, entitled "An act providing the means of intercourse between the United States and foreign nations," and, also, pursuant to the resolutions aforesaid; and that Mr. WILLIAM SMITH, Mr. GALLATIN, and Mr. HILLHOUSE, do prepare and bring in the same.

WEDNESDAY, May 11.

The bill authorizing Ebenezer Zane to locate certain lands in the Northwestern Territory, was read a third time and passed.

Mr. TRACY made a report on the petition of the widow of the late Colonel George Gibson, which, being of the same nature with that of the widow Butler, lately before the House, was reported upon in the same way, and ordered to lie until the former case was decided upon.

Mr. NICHOLAS moved that the bill for the sale of land Northwest of the river Ohio, with the amendments from the Senate, and the report of the select committee thereon, might be taken up; which was accordingly done; and, being gone through with one or two amendments of little consequence, the amendments of the Senate were agreed to.

[By this bill, as now amended, the small lots of 160 acres each are done away, and the least quantity now to be sold is 640 acres. An amendment was proposed to reinsert a clause for the purpose of restoring the small lots, but was lost, there being 31 for it and 83 against it.]

SALE OF PRIZES.

The House resolved itself into a Committee of the Whole upon the bill to prevent the sale of prizes in our ports.

Mr. GALLATIN moved to add a clause, to limit the duration of the law for two years, and from thence to the end of the next session of Congress.

Mr. S. SMITH wished to amend the motion by striking out "two" and inserting "three."

The motion for inserting "three" was put and negatived.

Mr. SITGREAVES hoped the amendment would not prevail. If he understood the intention of this bill, it was to prevent the necessity of making stipulations in time of war. At the expiration of this law it was possible the parties might be at war. The idea was to establish, during a season of peace, a law with respect to the sale of prizes, which could give offence to no Power; but, at the expiration of the proposed limit, we might be in the situation we wish to avoid.

Mr. NICHOLAS said, if the bill was attended to it would be seen that that objection would not stand. If the act expires, and we think proper to renew it, would it be introducing a new principle? Surely not, it will have been in operation three years, and, therefore, could not be considered as new.

Mr. MURRAY had no objection, in common acts

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of the Legislature, to introduce a clause of limitation; but in acts where great principles are laid down, as in this, which establishes a rule of action equal to every country in a state of war, whilst we are in a state of neutrality, he thought it perfectly unnecessary to limit the bill. It would always be in our power to repeal the law; but, holding out an idea that at the end of two years the regulation might die, he thought wrong. There was no experiment necessary with respect to this law; for, being right now, it would be right forever. But to hold out an idea that the measure was merely temporary, might induce a foreign Power to make use of artifices to prevent a re-enacting of the law.

Mr. SITGREAVES said, he did not feel convinced by what had fallen from the gentleman from Virginia. If, when the law expired a fresh law was passed, it would be considered as a neutral nation changing the situation of two nations at war, so as to give one a preference to another. It would at least be considered as an unfavorable thing, if Spain should be at war with France or England, when this law expires; not to renew it would place her on a worse footing than the other Powers, and to put her on the same ground with France and England, we must make a new law. It was true it would not be a new principle, but it would change her situation, and might be cause of offence to the other nation at war.

Mr. SWANWICK conceived that every argument in support of the bill was in favor of a limitation of its duration. It was founded upon the probability of war betwixt England and Spain. If these two Powers did go to war he apprehended it would be within two years, or not all. But gentlemen say the principle is a permanent one. He was of a different opinion: it might be a very wrong principle at some times, though good now. To make the law permanent was going too far. He had another and still stronger objection to the law being passed without limitation—he should make no stipulation in favor of any country without reciprocity. If this privilege was allowed to Spain, we ought to be guaranteed to have a like stipulation in our favor.

Mr. S. said, he did not see any necessity for the bill at all, but he should waive his objections to it. He thought there were strong reasons, however, for limiting its duration, in order to obtain suitable returns from other foreign Powers.

Mr. GALLATIN said, it was well understood that the Law of Nations was entirely silent with respect to the sale of prizes in neutral ports. It was one of those things relative to belligerent Powers, which was more the subject of a Treaty than of law. Amongst all our Treaties with foreign nations only one of them contemplated this object, viz; the Treaty with Great Britain, which forbids expressly all her vessels taken prizes from being sold in our seaports. This being established, we wish to put other nations, with whom we have not treated on the subject, on the same footing with Great Britain. We had not at present any provision with the Dutch on the subject, so that Great Britain might bring into

our ports Dutch prizes, and the Executive could not with propriety refuse them the privilege of selling them. On account of the situation of other Powers, especially Spain, it was right, in this instance, to do by law what in most cases would be better done by Treaty; but the very reasons which induced him to wish for the law, induced him to make the amendment. The Treaty with Great Britain was to expire two years after the present war; and, if the present law was not made to expire about the same time, it would put it out of the power of the PRESIDENT to negotiate a new Treaty upon the best terms possible; for Great Britain, holding by law that advantage, would feel no inducement to grant an equivalent in order to obtain it.

Mr. WILLIAMS was in favor of the limitation; for, though a good measure to-day, it might not be so a few years hence. No difficulty could arise from the limitation; and, if it did not answer; it was much better to let the bill die of itself than to repeal it.

The motion on the amendment was put and carried. The Committee then rose, the House took up the consideration of the amendment, agreed to it, and ordered the bill to be engrossed for a third reading.

Mr. S. SMITH called up, and the House went into a Committee of the Whole on the resolution which he had laid upon the table to prevent the sale of prizes in the ports of the United States. He wished, he said, to put all nations upon the same footing in this respect. The French had been in the habit of bringing their prizes into the ports of the United States. Under the Treaty with that nation (and as the Law of Nations did not forbid their sale) the PRESIDENT had indulged them in the practice of selling their prizes. The French, therefore, having had this privilege, the British, if no new law was passed to the contrary, would expect to be indulged in the same way; and, should a war break out between England and Spain, (which was no improbable thing from the present situation of Europe,) and the English should bring into the ports of the United States Spanish prizes, it might give offence to Spain, as that nation could not do the same, it being contrary to a stipulation in the late Treaty with Great Britain. The British bringing Spanish prizes into our ports, Mr. S. said, would have another bad effect—they would enlist our sailors on board their vessels, and by that means greatly enhance the wages of seamen, already too high.

The motion was put and carried; the Committee rose and reported the resolution; the House took it up, when Mr. MACON observed, it would be impolitic to pass the law proposed. Had they not already allowed the French to sell prizes in our ports, and would it not be a breach of our Treaty with them now to put a stop to the practice? He thought it would be better to leave the matter as it was.

Mr. W. SMITH said, the Executive did not consider it as repugnant to the Law of Nations to allow the French to sell their prizes in our ports, and, therefore, he had tolerated the practice. But

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it was an injurious practice: it created a tendency to war and a desire of privateering in their seamen, when they were witness to the spoils acquired by others. No nation could claim it of right; and we had a right by law to prohibit it; and very beneficial effects would, in his opinion, arise from such a restriction.

Mr. SWANWICK thought the resolution very important. It was interfering with a principle gentlemen were not aware of. It was a very delicate subject. Sweden and some other countries have found an advantage in allowing prizes to be sold in their ports. It was doubtful with him whether the inconveniences would not be greater than the conveniences arising from the proposed measure. It had the appearance of withdrawing an advantage from France, which the PRESIDENT had heretofore allowed them to enjoy. If the late Treaty with Britain takes the power away from France, let it be left on that ground. He supposed the PRESIDENT did not grant the privilege without well considering the matter. What were now the reasons for withdrawing it he could not say. The gentleman from Maryland had mentioned a war with Spain. If such a war were to take place the measure now proposed might be adopted; but, in the mean time, as the PRESIDENT had conducted the business heretofore, he was willing it should be still left with him. The measure might be a right one, but it was taken up in a sudden manner, and he had not time to make up his mind on the subject. He thought no argument of what might possibly happen at some future time ought to influence them in the present decision.

With respect to enlisting our people to go on board privateers, if prizes were suffered to be brought in, he believed the high wages given by the merchants to seamen would prevent them from voluntarily going on board ships of-war; besides, they would be liable to be treated as pirates. He, therefore, did not apprehend much evil from this; but he apprehended much evil and no advantage from this resolution. His great objection against it was, because it was an interference with Executive business, and that its operation would be chiefly against France. The British take few prizes. It would neither favor the interests of France nor Spain, but it would favor alone Great Britain. Upon the whole, as the PRESIDENT had allowed France the privilege of selling her prizes in our ports, he was not willing to do any thing on his own part to withdraw it.

Mr. S. SMITH.—This subject was introduced two years ago. Things were very different from what they are now. The French were allowed to sell their prizes in our ports under the Laws of Nations. By our Treaty with France, prizes taken from that nation were forbidden to be sold in our ports; and, by our Treaty with Britain, the same thing is stipulated with respect to the British vessels. Therefore, neither of those two nations can complain; but before any new European war takes place we wish to put all nations upon the same footing in this respect.

He was surprised to have heard ideas so anti-

commercial from the gentleman from Pennsylvania, [Mr. SWANWICK,] who said he was under no apprehension from British privateers engaging our sailors: whereas our sailors, having early embarked in privateers, was well known to be one of the causes of the high prices of wages. British impressments was another cause. The sailors of the Danes and Swedes remain at nearly the same rates as usual; and he would say if Spanish and Portuguese prizes were to be admitted to be sold in our ports, the wages of sailors would advance to fifty dollars a month. That gentleman had studied and spoken upon the Treaty, yet he did not seem perfectly to understand it. He said, our seamen would not be likely to enter on board privateers, because, if they did, they would be considered as pirates. Mr. S. read the article, in which the words are: "If any subject or citizen, &c., shall accept any foreign commission or letters of marque for arming any vessel, &c., if taken, shall be considered as a pirate." Did sailors, he asked, come under this description? But, if they did, show them a prospect of extraordinary gain, and nothing could stop them from entering.

The peace of this country, Mr. S. said, would better be preserved if a plan of this kind was adopted. In other countries, it was true, prizes were permitted to be sold or not, as it appeared to be their interest. It was our interest to keep ourselves separate from the quarrels of European nations, which scarce ever ceased, and to be at peace with all the world.

Was it one of the causes of Admiral Murray's being on our coast that French prizes were suffered to be brought into our ports and sold, from whose ships our property had suffered more injury than all the prizes which could be sold in our ports would do us service? The measure was perfectly neutral, and could give no nation reason to complain.

Mr. SWANWICK agreed with the gentleman from Connecticut, [Mr. HILLHOUSE,] that we ought not to act under fear of displeasing any foreign nation, when doing what appeared right and proper; and wished, also, with the gentleman from Maryland last up, to be at peace with all the world. Upon these principles there would not be a discordant sentiment in that House.

If this advantage was given up to Spain, that prizes taken from her should not be sold in our ports, we ought to have a stipulation on her part, that in case we were at war our vessels should not be sold in her ports. With regard to the existing state of things by Treaty, neither France can bring British, nor Britain French prizes into our ports, so that we need not be afraid of our sailors being tempted to enter on board privateers, few or none of these appearing here. But few prizes had been brought into our ports, and as few instances of American sailors going a privateering. He believed British impressments of our seamen and the general rise in price of almost every thing, had been the chief cause of the present high wages. He could tell the gentleman from Maryland that there was an article in the

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late Treaty which more probably continued Admiral Murray on our coast than the intercepting of French prizes—he meant the article which sanctioned the taking of our vessels coming from French ports, on suspicion of their having enemy's property on board. Nearly every vessel of this kind the British cruisers met with are taken and sent into Bermuda, where the original suspicion is made proof strong as Holy Writ, and the virtuous Judge has no scruples in condemning nearly as fast as the vessels are brought in. He believed this was the whole history of Admiral Murray's cruise. He was daily in the habit of capturing our vessels and goods. If his views were to intercept French prizes, he would not be about the mouth of the Delaware and off New York, as prizes have been mostly carried into the more Southern ports, on account of their nearer situation to the West Indies.

Gentlemen seemed to think this law would favor Spain, Portugal, and Holland. If so, he said, we had no reciprocity of advantage; and we are making regulations barring ourselves from obtaining equivalent returns of benefit for what we are thus needlessly relinquishing.

Mr. GOODRUE said the only question was, whether we should give to Spain the same advantages by law, which Great Britain and France had by Treaty. He had no doubt if we did this, Spain would have the magnanimity to make a similar regulation in our favor.

Mr. MADISON believed that if a war were to break out between Great Britain and Spain, we should then be as free to make such a regulation as we are during the war at present; and if so, he did not see the necessity of going into such a measure at present.

He thought there was some weight in the argument of the gentleman from Pennsylvania, [Mr. SWANWICK,] that if this was an advantage given to Spain, we ought to have something in return; and though she might, from a principle of magnanimity, grant us a similar regulation, it would be more certain to have it secured by Treaty. As he did not see the necessity for this measure, he did not like a legislative interference of any sort, under present circumstances. The executive was charged with the application of the Law of Nations, and was responsible on that subject: the Legislature were to decline them. This would induce hesitation at least. He had not thought much on the subject; but he believed there was nothing in the present case that could require the interference of Congress, in a manner to assume a responsibility belonging to the Executive Department.

Mr. W. SMITH said, the gentleman from Virginia [Mr. MADISON] supposed that it would be full time enough to make the regulation now proposed, when a war might break out between Great Britain and Spain; but he would ask that gentleman what was to be done if such a war should break out in the recess of Congress, and British vessels of war were to bring in Spanish prizes? The President having heretofore permitted the French to bring in and sell their prizes, could not, without a violation of neutrality, refuse the same

privilege to the British, as there would be no law against the practice. With respect to the Law of Nations authorizing the sale of prizes, there was a remark in *Vattel* which seemed to incline to the opinion that the sale of prizes was not inconsistent with neutral duties. He thought we ought to give no advantage to one belligerent Power over another; and therefore, to give any belligerent Power the liberty to sell their prizes in our ports, and refuse it to others, would be a breach of neutrality; and therefore it was, that two years ago, he advocated a bill which passed the Senate, but was rejected in this House by a small majority.

There was nothing in the Law of Nations which gave the British a right to sell prizes in our ports, nor was there anything in the late Treaty which either sanctioned or prohibited the privilege. The French had been allowed to do it, but it was stated by Mr. JEFFERSON, the Secretary of State, to be a mere indulgence; yet, having been once granted, the President was scrupulous about withholding the privilege, except required so to do by law. If a war were to take place between Great Britain and Spain, not being restricted by law, the President would feel himself required to grant the same privilege to Great Britain which he had heretofore allowed to France.

With respect to the observation that we ought to have something in return from Spain, he had little doubt but she would grant to us a reciprocal regulation; if, however, she should not, the law could at any time be repealed. He hoped, therefore, the session would not close before such a law was passed.

Mr. KITTERA said the regulation would be an advantage to this country, and not to Spain. Instead of the sale of prizes being advantageous, they were a great evil; for, independent of other considerations, it was injurious to fair and regular commerce, because the goods coming in, unexpectedly, overstocked the market, and put things out of their regular course.

Mr. GALLATIN was in favor of the resolution, and he conceived the present was the best time for passing such a law. If the regulation were to take place while a war subsisted between Great Britain and Spain, it might be a cause of offence to Great Britain, as operating against her; but, at present, no nation could object to the passing of such a law. With respect to the idea suggested that we should stipulate a return of favor from Spain, he must confess he was not afraid of obtaining a similar regulation from her. It must, however, be observed, that, so far as related to Great Britain, though we had stipulated by Treaty that her vessels taken prizes should not be sold in our ports, yet that Treaty was only to continue in force for two years after the present war, and the law now under consideration was not limited in its duration; he therefore wished an amendment to be introduced limiting the law to the same period with the existence of the Treaty, that when the President had again occasion to negotiate, he might obtain something in return from Great Britain.

Mr. W. SMITH thought there was force in the

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argument of the gentleman from Pennsylvania, and the law could be so formed.

The resolution was agreed to, and a committee appointed to bring in a bill.

INTERNAL REVENUES.

On the motion of Mr. W. SMITH, the House resolved itself into a Committee of the Whole, on the Report of the Committee of Ways and Means on the provision requisite for improving the internal revenues of the United States, and for more effectually securing the collection of the same; when a considerable debate took place on the first article, which is in the following words:

Resolved, That it will be expedient to abolish the tax on spirits distilled from materials of the growth or produce of the United States, at any other place than a city, town, or village, or at any distillery in a city, town, or village, at which there shall be one or more stills; which singly, if only one, or together, if more than one, shall be of less capacity than four hundred gallons; and to collect this branch of the revenue from a tax on the capacity of the stills."

In the course of this debate, a motion was made to strike out all the words after "produce of the United States," and another for striking the article out altogether.

In support of the first motion, it was asserted that the tax itself was unequal and vexatious, by laying a duty upon one part of the United States which distilled spirits from grain, while others who brewed porter or beer of their grain paid no duty. And in support of the last motion, it was asserted that the present mode of collecting the tax was easier to distillers, and more profitable to the revenue, than it would be by the new plan.

At length, a motion was made for the Committee to rise, for the purpose of getting rid of the consideration. The Committee accordingly rose, reported, and asked leave to sit again. Some opposition was made, and leave was obtained by a majority of one only—being 36 for it and 35 against it.

A motion was then made and carried, 39 to 37, to discharge the Committee of the Whole from a further consideration of the first article.

On motion of Mr. NICHOLAS, the House took up the report of a select committee for augmenting the salary of the Accountant of the War Department; which being agreed to, a committee was appointed to bring in a bill.

ON QUARANTINE.

On motion of Mr. S. SMITH, the House resolved itself into a Committee of the Whole, on the bill regulating Quarantine; when—

Mr. HEISTER objected to the principle of the bill. It proposed to take the power from individual States to regulate what respected the health of their citizens, and to place it in the PRESIDENT OF THE UNITED STATES. He thought this measure would be attended with great inconvenience. Many of the States lay very distant from the seat of Government, and before information could be given to the PRESIDENT of the apprehension of any pestilence being introduced, and his answer

received, the disease might be introduced into the country, and great havoc made amongst our citizens. It appeared to him that the Government of each individual State was better calculated to regulate quarantine than the General Government, because upon the spot. And if the power was to be transferred from the PRESIDENT to the Collectors at each port, (and that he conceived must be the case), it would put a vast deal too much power into their hands. He hoped, therefore, the bill would not be agreed to.

Mr. S. SMITH said that each individual State had or might have its own health laws, but the performing of quarantine was in the direction of the General Government: it was a commercial regulation. The PRESIDENT ought to be empowered to designate the place where vessels should perform quarantine—to enforce the performance—and to determine at what time of the year it should commence and end. It ought, he said, to commence at the present time.

Mr. KITTERA understood that each independent State had a right to legislate on this subject for itself; and if they had no regulations on the subject it was because they had not felt the want of them. He believed that each State had understood its own concerns better than the General Government, and therefore the regulation might be safely left with them.

Mr. S. SMITH denied that there was any authority in the State Governments to regulate quarantine. They could not command the officer of a fort to use force to prevent a vessel from entering their port. The authority over him was in the General Government.

Mr. MILLEDGE spoke against the law. He said the State from which he came was in the habit of regulating quarantine, and that it would be attended with many inconveniences if the power was to be placed in the General Government. To the State which he represented, on account of its distance, it would be particularly objectionable.

The Committee rose without making any amendments in the bill, and the House took it up.

Mr. GILES said that self-preservation justified every State in taking means to prevent the introduction of diseases among its citizens. He thought the bill unnecessary.

Mr. W. SMITH said the Constitution did not give to the State Governments the power of stopping vessels from coming into their ports.

Mr. HEISTER moved to strike out the first section. He said it appeared to him as if it would be taking the power of regulating quarantine from the State Governments, and placing it in the hands of the Collectors at different ports; and as he believed the Collectors were interested in proportion to the quantity of goods imported, the health of our citizens and the interest of the Collectors would be placed in opposition to each other. He hoped the first section would be struck out.

Mr. KITTERA and Mr. SWANWICK were in favor of striking out the first section.

The time of adjournment being arrived, the House adjourned without taking the question on Mr. HEISTER's motion.

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THURSDAY, May 12.

The bill for preventing the sale of prizes in the ports of the United States was read a third time and passed.

The committee to whom was recommitted a bill from the Senate improving the act relative to the encouragement of Useful Arts, together with a report of the committee to whom the said bill was referred, made a report; which was ordered to lie upon the table.

A communication was received from the Treasury Department, enclosing a statement of the exports of the United States for the year 1795; which was ordered to be printed.

Mr. W. SMITH reported a bill regulating grants of lands appropriated for military services, and for the society of United Brethren, for propagating the Gospel; one for satisfying the claims of the executors of the late Baron Steuben; and another for making further provision for the expenses attending the intercourse with foreign nations, and to continue in force an act providing for the expenses attending the intercourse between the United States and foreign nations. These three bills were twice read, and ordered to be committed to a Committee of the Whole; the two first on Saturday, the last on Monday.

Mr. NICHOLAS reported a bill for altering the compensation of the Accountant of the War Department, which was twice read, and ordered to be committed to a Committee of the Whole tomorrow.

Mr. THATCHER reported a bill in addition to the act establishing Post Offices and Post Roads within the United States; which was twice read, and referred to a Committee of the Whole on Monday.

Mr. CORT, from the Committee to whom was referred the petition of John Edgar, and others, of the Northwestern Territory, praying to be permitted to introduce slaves into that Territory from other States, reported against the petitioners; but with respect to their claim for certain lands, they reported in their favor. The report was read and ordered to lie on the table.

ON QUARANTINE.

The House went into Committee on the bill relative to Quarantine; and the motion of Mr. HENRER to strike out the first section being under consideration, viz:—

“Be it enacted, &c., That the President of the United States be, and is hereby authorized to direct at what place or station in the vicinity of the respective ports of entry within the United States, and for what duration and particular periods of time, vessels arriving from foreign ports and places may be directed to perform quarantine.”

Mr. BOURNE hoped the motion would not be agreed to. He thought it a necessary regulation. No inconvenience, it was true, had occurred in the State he represented, but he believed they were liable to inconveniences from the want of such a law as this. By the aid of custom-house officers, who had concurred with the State, they had been able to effect every necessary regulation; but, if these officers had refused their aid, they could not have stopped vessels with infectious diseases from

coming into port—it being of the nature of a commercial regulation, to which, by the Constitution, Congress alone were competent. Without the first clause, there would be a radical defect in the bill.

Mr. SWANWICK said, if the section was struck out, the bill would have every desirable effect. All that was complained of, was, that the authority of any individual State could not compel vessels to perform quarantine; but if the PRESIDENT gave directions to the officers of the United States at every port to aid the State Governments in this respect, every effect would be obtained. The first section of the bill went only to direct the time during which quarantine should be performed, and at what particular place, which would certainly be best determined by the State Governments. Indeed, most of them having already fixed on places for the purpose, and erected suitable buildings for the sick, for purifying goods, &c., it would be attended with very great inconvenience if a different place was to be fixed upon by the United States. It was said, the right of regulating quarantine did not re-side in the States Governments; he believed it did, and that the individual States had conceived so, was evident from the expense which some of them had been at in erecting buildings, &c., for the purpose. He particularly alluded to the provisions made for this purpose by the State of Pennsylvania on the Delaware.

Mr. SITGREAVES would ask his colleague [Mr. SWANWICK] to point out the inconveniences which would arise from passing the law in its present state? It was true, the State of Pennsylvania had made some regulations on the subject of quarantine; but, without the aid of the United States, they could not carry them into effect. They may direct, by their Governor and Board of Health, quarantines to be performed, but they could not force any vessels to observe their directions, without the aid of the General Government. Some States had, on this subject, no institutions at all; and where it existed, it was reasonable to suppose that they would be properly respected by the PRESIDENT in the arrangements he should make under a law like the present. At any rate, no inconvenience need be apprehended from an exercise of concurrent jurisdictions. If a State should direct one term of quarantine to be performed, and the PRESIDENT another, the longest term which must comprise both, will be submitted to. But the strongest and best reason for a law, such as the one proposed, is, that it is matter of very serious doubt whether, upon this subject, the States had any authority at all, and whether all such power is not vested by the Constitution in the Congress, under their general authority to regulate commerce and navigation. He inclined to the last opinion, and believed, upon examination, it would appear to be well founded. On the whole, the provision contemplated might produce good effects, and could not be followed by any evil consequences; and, therefore, he should vote for it.

Mr. MILLEDGE spoke in favor of striking out the first section, and of the power of regulating quarantine being in the State Governments. Savan-

nah, in Georgia, he said, was one thousand miles from the seat of Government, and from their situation with respect to the West Indies, they were very subject to the evil of vessels coming in from thence with diseases; and, if they were to wait until information could be given to the PRESIDENT of their wish to have quarantine performed, and an answer received, the greatest ravages might in the mean time, take place from pestilential diseases. The State of Georgia had a long law on the subject, and had always been in the habit of regulating quarantine, without consulting the General Government.

Mr. BOURNE spoke again in favor of the bill. It had been objected against the bill, that the State might order quarantine to be performed for one length of time, and the General Government another. That difficulty would be got over by observing the longest period.

Mr. GILES said, there appeared to him several inconveniences attending the bill. The gentleman last up had stated, that if a longer time was ordered for quarantine to be performed by either the State or General Government, it should be obeyed in preference to the shorter. He believed this would not prove satisfactory. But how did gentlemen propose to get over the difficulty of different places being appointed by the two Governments? If, said he, the States had already fixed upon times and places of performing quarantine, he thought it necessary for the General Government to interfere in altering them. He thought that both time and place should be fixed by the State; but if it were the business of the General Government, it was Legislative and not Executive business. It was said, some of the States had no regulations with respect to quarantine; but, if they had not, when they found a necessity for them, they would have them. It had been said, that every useful purpose would be answered by the last clause; why, then, retain the first against which there are so many strong objections? He hoped it would be struck out.

Mr. KITTERA asked if a State should think it necessary to change the place of performing quarantine, whether the PRESIDENT could always have notice of the change in time, so as to make his regulations accordingly? He believed not. This would be one of the inconveniences which would arise from the first clause. He thought the second would answer every desirable purpose.

Mr. S. SMITH said, that gentlemen who opposed the present bill, insisted upon the authority to regulate quarantine being in the State Governments. The gentleman from Pennsylvania [Mr. SWANWICK] said that each State had its buildings for the purpose. This was not a fact. Some of the States had no regulations on the subject. At Baltimore, they had built an hospital four miles from the port, but the State had no authority to stop vessels at it. He asked the gentleman from Georgia [Mr. MILLEDGE] whether there was any power in that State which could stop a vessel of his from going into Savannah, though she had sickness on board? He denied that it had. She will sail into port in defiance of their State laws.

It was a commercial regulation, and, therefore, the business of the General Government. Mr. S. said, he brought in this bill, that the regulations respecting quarantine might be authorized by the proper authority. It could not be supposed that the PRESIDENT would alter the places already fixed upon by the individual States, without such good reasons as would convince them of its necessity. To suppose the contrary, was an unworthy suspicion that the Executive would abuse his power. There were States which had no laws upon the subject. Maryland had a law which had been sanctioned by a law of the General Government, and had been renewed this session.

Mr. WILLIAMS observed, that the gentleman last up had said that regulations respecting quarantine were commercial regulations, and, therefore, vested in the General Government. The State of New York had never found any difficulty in causing vessels to stop at a certain place to perform quarantine. Philadelphia and New York had had occasion to make alterations with respect to the proper places of stopping; and they were certainly the best judges as to the propriety of those alterations. It appeared to him that the second clause would answer the purpose wanted. Not that he was by any means jealous of the power of the PRESIDENT; but he believed it would be best for the States to have the power of directing the time and place of performing quarantine, as they could more immediately carry their regulations into effect. The second clause directs that the officers of the General Government shall aid the State Governments, which is all that is necessary.

Mr. W. LYMAN thought the individual States had the sole control over the regulations of quarantine. It was by no means a commercial regulation, but a regulation which respected the health of our fellow-citizens. In the town of Boston the small-pox was considered as a pestilential disease, and they certainly had a right to make their regulations accordingly. He knew the United States could prohibit the importation of goods, but he did not think it was in the power of the United States to prevent the landing of persons. He believed the bill was unnecessary, and that individual States had a right to make such regulations as were necessary for the preservation of the health of their citizens.

Mr. HILLHOUSE said, if gentlemen had been as near infectious disorders as he had been, they would have been convinced of the necessity of making some such regulations as were now proposed. He was not surprised that gentlemen who lived several hundred miles from the shore did not feel anxious about the matter. He thought it was an object which merited the attention of Congress. He knew there were local regulations in many of the States relative to this subject, which he did not wish to destroy. Gentlemen might as well say that the individual States had the power of prohibiting commerce as of regulating quarantine: because, if they had the power to stop a vessel for one month, they might stop it for twelve

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months. This might interfere with regulations respecting our trade, and break our Treaties. At the same time, he allowed that the States were the best judges of time and place. Mr. II. proposed two amendments. One was, that the PRESIDENT should make regulations where individual States had not already done it; the second was, to make it the duty of officers of the United States to assist the State Governments to carry into effect their several laws, until Congress shall make regulations to the contrary.

Mr. GALLATIN said, he did not agree in the least with the gentleman from Maryland [Mr. S. SMITH,] that the power of regulating quarantine was exclusively in the United States. He conceived the only clause in the Constitution which could at all countenance such an idea, was the article relative to commerce. But, he said, the regulation of quarantine had nothing to do with commerce. It was a regulation of internal police. It was to preserve the health of a certain place, by preventing the introduction of pestilential diseases, by preventing persons coming from countries where they were prevalent. Whether such persons came by land or by water, whether for commerce or for pleasure, was of no importance. They were all matters of police.

The individual States had thought themselves competent to prevent the introduction of slaves coming by sea, although that also might be called a commercial regulation which they had no right to interfere with. And if a vessel belonging to the gentleman from Maryland was to come to the ports of Baltimore or Philadelphia with a cargo of negroes, he believed the State Government at either place would be equal to the preventing of him from landing and disposing of them, though he would say it was an article of commerce. The State Governments had also something to do with the internal regulations of their ports. That of Philadelphia was under the direction of Wardens and of State laws. He had no objection to the United States assisting the individual States in enforcing their quarantine regulations, but he had an objection to their asserting that they had the sole right of making regulations on that head, or of making health laws for the individual States. He knew that when the Legislatures of different States had legislated on the subject, they had thought it an important branch of their duty.

The words proposed to be introduced by the gentleman from Connecticut, "until Congress shall make regulations to the contrary," seemed to say that the health laws of the several States were to continue only during the pleasure of Congress; but if the assistance of the United States was only necessary, the amendment of his colleague [Mr. HEISTER] would answer the purpose.

Mr. S. SMITH said the gentleman from Pennsylvania [Mr. GALLATIN] differed in opinion from him with respect to the States having the power to stop vessels coming into their ports. It was true, that the laws of the States of Maryland and Pennsylvania prohibited the importation of slaves; but a vessel might bring in any quantity of ne-

groes, provided, on landing, they were not sold. It had been said that the Governor of Pennsylvania had stopped vessels from entering this port, which were suspected of having diseases on board. That was, he said, before the port was ceded to the Union. He had not the power now to do it. That such authority had been submitted to was true and proper, but he had no legal right to stop any vessel.

The individual States may make health laws, but they want the power to carry them into execution; they are good for nothing without such power. That the State of Pennsylvania had passed a health law, and carried it into effect, was no proof against his assertion. The law which he had now brought forward was meant to give full effect to the State laws. He had no objection to the amendment of the gentleman from Connecticut.

Mr. W. LYMAN observed, that the gentleman from Maryland [Mr. SMITH] did not make the proper distinction. Quarantine was not a commercial regulation, it was a regulation for the preservation of health. If commerce was incidentally affected, it ought so to be, when the object was the preservation of health and life. The United States, it was true, could prevent the importation of any goods, whether infected or not, but it did not thence follow that they could permit the landing of infectious goods contrary to the laws of any State. The several States possessed the sole power over this subject. They were the best judges of the due exercise of it. The right to preserve health and life was inalienable. The bill was not only unnecessary and improper, but it was an injudicious interference with the internal police of the States; neither would the amendment which had been offered by the gentleman from Connecticut [Mr. HILLHOUSE] ameliorate the bill; it would still be interfering with State policy. If that gentleman had any panics about infectious diseases, he might find relief in the laws of that State. If the laws there were not competent thereto at present, the gentleman might remonstrate to their Legislature, and no doubt could exist but he would be suitably listened to. As to the argument that States neglected to make regulations, it proved that they supposed them superfluous. Whilst they forbear to do any thing, it was proof that nothing ought to be done. The States were the best judges, and had the sole power to determine.

Mr. KITTEK said, his objections to the bill would be removed by the amendments of the gentleman from Connecticut. The only point in which they seemed to differ was, whether the PRESIDENT OF THE UNITED STATES, or the Government of each individual State, was best able to make the wisest regulations? If the first section passed, the PRESIDENT would most probably adopt the regulations of the different States; and, by the second, the officers of the United States are commanded to aid in the execution of the State laws.

Mr. BEATH was for striking out the first clause, and was against the bill altogether.

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Mr. HILLHOUSE said, the first clause might be struck out. It was only necessary where no regulation was made. It was said that a regulation of quarantine had nothing to do with trade; but if a State, in order to prevent the introduction of certain goods from a certain country, were to order a quarantine of twelve months to be performed, would it not be destructive of commerce? It certainly would; and if a State had the power of stopping a vessel one month, she can extend it to twelve, if she pleases.

Mr. GILES said, he did not know which States had legislated on this subject, and which had not. He did not know that any of the States had not legislated upon it; but if they had not done it, they could do it. The gentleman from Maryland [Mr. SMITH] had said, to regulate quarantine was a commercial regulation. They were legislating, not upon commerce, but upon preventing the introduction of pestilential disorders. Were these objects of commerce? If a state stops a ship, she does not stop it on account of the goods it contains, but because it contains an infectious disorder, which, if it were considered as an article of commerce, certainly ought, at least, to be a contraband article. He did not believe there was any necessity for interference; but, if there was any want of ability to enforce obedience to the laws of the State, he had no objection to furnish it, and that would be done by the proposition of the gentlemen from Pennsylvania [Mr. HEISTER.]

Mr. SWANWICK said, if it were to be admitted that the General Government was to take upon it the regulation of health, he would ask whether the first section of the present bill contained any regulation of this sort? The State of Pennsylvania, he said, had been at great expense in erecting necessary buildings for the reception of persons and goods infected with diseases. It was to be lamented that gentlemen had not before found out that this was the business of the General Government, for it had been a very expensive undertaking to the State of Pennsylvania to provide the necessary buildings for carrying their quarantine and health laws into execution, and they would gladly have turned it over to the United States. He thought the utility of this business remaining in the State Governments was evident. Commercial regulations were placed in the General Government to prevent one State having advantages over another with respect to commerce; but with respect to health, every State was certainly the best judge, and the claim was imperious; and, if it were under the power of the General Government, and Government was to neglect to take the necessary measures, the State would itself take them. During the late sickness at New York it was thought necessary to appoint special committees to aid the State Government in this city.

The gentleman from Maryland had asked if a State Government could stop a vessel from entering any of its ports? If not, they had been infringing on the laws for several days. The Government of New York and Pennsylvania were in the constant habit of preventing ships from enter-

ing their ports, until they had been examined with respect to their healthiness.

Gentlemen had talked about their abode being near or distant from sea-ports. He could see no use in such observations. It was certainly of first consequence to guard the health of their citizens by every possible means. He said, at this port, they had laws respecting wardens; there was also in the different States inspection laws, which in some degree affected commerce, but were not the kind of regulations prohibited by the Constitution; these did not interfere with the rights of Congress to regulate commerce.

Gentlemen had brought another subject into view, which he could not see any good reason for doing; they had charged members opposed to this law with being unreasonably jealous of the power of the Executive. Surely, to prevent the landing of diseased persons or infected goods, could not have any relation to a jealousy of that power. This subject was too often introduced, when, he believed, there was no real occasion for it; though he hoped they never should be wanting in entertaining any justifiable jealousy of the extension of any of the powers of Government, if these should be conceived to have been improperly exercised, but he knew of nothing of this kind at present.

Mr. W. SMITH said, if this question was confined to a mere question of acquiescence in the State laws, there might be a propriety in the Federal Government overlooking those laws; but it was essentially connected with the powers of Congress on an important subject. He had been surprised to hear gentlemen assert, that this subject was not of a commercial nature. The gentleman from Virginia [Mr. GILES] had said, diseases were not articles of importation, or if they were, they were contraband; but the gentleman must know that importations of all kinds were under the regulation of Congress, and contrabands as much as any other. Consider how epidemical diseases, imported, affect the United States at large. They do not merely affect the city where first imported, but they obstruct the commerce of all others; they not only embarrassed the commerce, but injured the revenues of the United States. Another point of view in which it had an effect: The laws regulating the collection of the impost, were counteracted and obstructed by the laws regulating quarantine; and would any gentleman say, that a State Legislature had the power to contravene the act of the Federal Government, to obstruct all the laws by which it collects its revenues? It had been said, that this subject could be better considered in each individual State than we could possibly settle it. Who are we? (exclaimed Mr. S.) Are we a foreign Government? Gentlemen had already forgotten their arguments on former occasions, when speaking of the power of the House; they could then do anything and everything, and the people looked up to them alone for protection. If the subject was vested in the General Government, it was their business to protect the health of their fellow-citizens, as much as their property; because,

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if the performance of quarantine was neglected such neglect naturally tended to affect the lives as well as the revenue and commerce of the citizens throughout the United States. He, therefore, thought it a subject perfectly within the Federal jurisdiction; and as there were States which had no law upon the subject, and as their Legislatures had now generally risen, the passing of this law would prevent the necessity of resorting to revolutionary committees of their citizens. Their refusing to legislate upon this occasion would be inviting the people to do the business by committees. The gentleman from Pennsylvania [Mr. SWANWICK] had referred to the laws of that State. He thought they had some very exceptionable laws, in particular their poll-tax on persons coming by water into their State. He thought it would be deviating from the spirit of the Constitution.

Mr. PAGE said, he should vote for striking out the first section. He should even wish to vote against the bill itself, as it was an attempt to extend the power of the Executive unnecessarily. We might as well undertake to form a system of police for every city in the Union. The State Legislatures could not be interested in opposing the landing of goods any more than Congress, and therefore would not be disposed to do it, except when their health would be endangered by it; but if he were to put in competition the interest of the revenue, and the right of the people to preserve their health, which was one of the first rights of Nature, he should certainly adhere to the latter at the expense of the former. The master of the vessel who refused to stop at the port of Baltimore, agreeably to the orders of the officers of the State Government, might have been prosecuted at common law. If gentlemen had no other object in view besides the preservation of the health of their citizens, they ought to be satisfied with the second clause, which went to the directing of the officers of the United States to aid the State Governments in obliging vessels to perform the necessary quarantine. The first clause had only a tendency to extend the prerogative of the PRESIDENT.

Mr. BOURNE said, gentlemen supposed it to be the duty of the PRESIDENT to co-operate with the individual State Governments with respect to the performance of quarantine; but he believed the States would think it an improper interference, except he were authorized by law. It was a duty of the PRESIDENT, expressly enjoined by the Constitution, to execute the laws of the Union, but it was not to execute the laws of the State. The gentleman last up had observed, that self-preservation required that every State should attend to its own health; but it must be allowed without some check in the United States that the commerce and revenues of the United States were liable to be materially affected by the regulations relative to quarantines; for, if the State Governments were once allowed to have the power of stopping vessels to perform quarantine, they might prohibit the commerce of any country at pleasure; the vessels from any particular country might be

stopped for so long a time or totally prohibited, so as to ruin the commerce with such country, on pretence of the vessels containing diseased cattle, or other infection. It would be said, that this would be an abuse of the power, which could not be expected; but, if the States had the power they could exercise it as they pleased. If they had the power of regulating quarantine, they could not carry it into effect, without the aid of the United States, who alone possess the power of regulating navigation and commerce. And he believed no damages could be recovered (as the gentleman from Virginia supposed) against any master of a vessel who had refused to obey the laws of any State with respect to the performance of quarantine, unless the authority of the United States should interpose, by making some legal provision for their being carried into effect, so far as they may relate to commerce and navigation.

Mr. HOLLAND said, that in an inquiry into the subject, whether the General Government or State Legislatures were the best judges of the measures necessary to be taken for the preservation of the health of the several States, it would occur, that the extent of country being so great, it would be difficult to say what regulation would, be best suited to all the ports of the Union; for, what would be salutary and proper for one, might be improper for another. From this circumstance, it would seem, that each State should have the power to pass its own laws on this head; and if so, the first clause should be struck out. To preserve one's health was an article of self-defence. Every individual should take his own measures to preserve his own health, and each State should judge of the best way of doing it for its own district. He had no objection to the calling in of the aid of the General Government to the execution of the State law, but not to regulate the time and place of performing quarantine. This was contemplated in the second resolution, and the first was therefore unnecessary. The Constitution being silent with respect to health laws, he supposed the passing of them was left to the States themselves. Those who yet have no laws on this subject, will make them when necessary. The question, in his opinion, was by no means a commercial one. The gentleman from Maryland being a commercial man, may be excused from considering it as one, as he readily converts most things into a commercial view.

Mr. BRENT was in favor of striking out the first clause of the bill under consideration, not from any jealousy of the Executive, but because the Constitution did not authorize such an interference. If the doctrines of the gentlemen from Maryland and South Carolina were true, they would swallow up all the authority of the State Governments. They had suggested, that if the State Legislatures had the power, they might use it so as to injure the General Government. He would ask, whether this would prove that they did not possess the power? If they possessed the power, and exercised it so as to injure the interests of the United States, the Constitution of the Union, he believed, would point out a remedy.

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The gentleman from South Carolina had said, that if the State Governments were possessed of this power, they might impair the revenue of the United States, and that, therefore, being connected with commerce, the regulating of quarantine must be in the power of the General Government. He would ask, whether the different States had not the power of regulating the inoculation for the small-pox? Yet this might be so ordered as to affect the trade and commerce of that country, and yet no one would say they had not the power of doing this. If the construction now contended for was carried to its extent, there would be no bounds to it. The States had always been considered as possessing the power of regulating quarantine. Such was the opinion at the time of adopting the Constitution, and, under this impression, the States had passed laws on the subject; nor did he believe, that necessity, expediency, or policy, required that the power should be changed. If this was the case, the question could only be brought forward for the purpose of establishing a Constitutional principle, which he should certainly oppose.

The question, for striking out the first section was put and carried—46 to 23; and the bill was ordered to be engrossed for a third reading.

INTERNAL REVENUE.

Mr. W. SMITH moved that the House should again resolve itself into a Committee of the Whole on the report of the Committee of Ways and Means on the subject of revenue, which, after a motion being made and negatived for discharging the Committee of the Whole from a further consideration of the report, the House formed itself into a Committee of the Whole accordingly, and after some little debate, five of the remaining resolutions were agreed to, and the sixth, relative to allowing collectors a certain mileage for traveling, was disagreed to. The following are the resolutions:

Resolved, That the officers of the revenue ought to be authorized by law to require of the city distillers, and the refiners of sugar, the verification on oath, of their books, once a quarter, and that it ought to be made the constant duty of such distillers and refiners, to exhibit their books, if required.

Resolved, That a time ought to be limited, within which the exporter of spirits distilled within the United States shall be entitled to a drawback; and that the drawback ought to be granted, unless where the exportation is from the district or State where the same are distilled, or the next adjoining district or State.

Resolved, That it would be expedient to modify the act imposing duties on licenses to retailers of liquors, so as the said retailers should pay in proportion to the amount of sales, so far as to divide them into four classes.

Resolved, That it would be expedient after demand made of any tax (except on goods imported) and a neglect or refusal to pay, to authorize a collection thereof by distress.

Resolved, That provision ought to be made for allowing drawback upon spirits exported (via Mississippi) in vessels of less than thirty tons.

Resolved, That it would be expedient, after demand

made of any such tax, and a neglect or refusal to pay, to allow the officer employed to collect the same, a certain mileage for his travel out to collect such tax, over and above the commission which he may be entitled to by law." *This resolution was disagreed to.*

The House then took up the resolutions, when, on motion of Mr. GALLATIN, the latter part of the second resolution (printed in *italic*) was agreed to be struck out—43 to 23; and they were referred to the Committee of Ways and Means to report a bill or bills accordingly.

FRIDAY, May 13.

Mr. LIVINGSTON presented a memorial from Alexander Macomb and William Edgar, stating that they purchased in the year 1787, 80,000 acres of land from the United States, for 80,000 dollars; that they paid the first instalment of 20,000 dollars, but that, afterwards, being unfortunate in a voyage to China, they were unable to make good the succeeding instalments; they now, therefore, pray that their original purchase may be completed, or that they may be allowed such a proportion of land as they are entitled to from the money they have paid. Referred to the Committee of Claims.

The bill relative to quarantine was read a third time, and passed.

The bill for erecting a light-house on Cape Cod was received from the Senate with one amendment; which was agreed to.

On motion of Mr. NICHOLAS, the Committee of the Whole, to whom was referred the bill for taking off the drawback on snuff imported, was discharged, and the bill was recommitted to a select committee.

FORTIFICATIONS.

On motion of Mr. W. LYMAN the House resolved itself into a Committee of the Whole on the report of the committee appointed to take into consideration the state of the fortifications of our harbors, the measures which have been pursued for obtaining proper sites for arsenals, and for replenishing our magazines with military stores, and to report what further measures are necessary respecting the same. The report was in the following words:

"That it appears from the report of the Secretary of War, referred to the Committee, that measures are now pursuing by the Executive for obtaining proper sites for arsenals, and for replenishing our magazines with military stores; but that the result thereof is not ascertained; the progress, however, is such as to warrant a belief, that the complete accomplishment of those objects will soon be effected. It is, therefore, the opinion of the Committee, that no further Legislative provision relative thereto is necessary at this time.

"From the view of the present state of the fortifications of our harbors, exhibited in the report of the Secretary of War, the Committee are induced to believe, that some further expenditures will be expedient to perfect and secure the works already constructed; other wise, in some instances, they might be useless, and in many, would probably be exposed to very sudden decay and destruction; nevertheless, it does not appear to

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the Committee to be necessary to extend the provisions for this object any further, at the present time, as by a Letter and statement from the Secretary to the Committee, (there appears to be a very considerable sum, viz: \$23,877 56) of the former appropriations now unexpended.

"These conclusions of the Committee are formed without reference to the fortifications in the harbor of New York. At that place, the works have been laid out upon a plan very extensive, constructed with durable materials, and principally under the direction of the Government, and at the expense of that State. Although it does not appear to have been contemplated by the United States to fortify any harbor so extensively, and in a manner so expensive, it may, notwithstanding, be deserving their attention to consider how far the undertaking is entitled to their encouragement and support. The Committee, therefore, beg leave to submit the following resolution:

"Resolved, That the sum of — dollars be appropriated and paid out of any moneys in the Treasury of the United States, not otherwise appropriated, for the purpose of completing and securing the fortifications in the harbor of New York."

Mr. W. LYMAN, the chairman of the select committee, said it was unnecessary to say anything of that part of the report which related to procuring sites for arsenals, and furnishing our magazines with military stores, as the House possessed the information on which the committee founded their opinion. From the report of the Secretary of War, they found that all the fortifications which had been deemed necessary by the Executive, were nearly completed, or that there was a sum already appropriated sufficient to complete them, except those in the harbor of New York, of which the Secretary of War had an imperfect knowledge, owing to the works at that place having been constructed mostly at the expense, and under the direction of the Government of that State. The committee finding, however, that the works at New York required attention, in order to prevent them from going to decay, they thought it proper some assistance should be afforded, and therefore determined upon the resolution which they had reported, and hoped it would meet with the concurrence of the House.

Mr. W. SMITH did not know that they were in a situation to attend to the fortifications at present: if they were, he thought the harbor of Charleston stood in as much need of attention as any other. He should, therefore, move, that Charleston should be added to New York, in the resolution.

Mr. WILLIAMS said, that it appeared from the report of the Secretary of War, that 18,000 dollars had already been appropriated to Charleston: he trusted, therefore, there could be no immediate necessity for a further sum for that port. The city of New York was in such a situation two years ago, when a war was expected, the Legislature of that State, finding the United States were not likely to undertake to fortify their port, themselves voted 200,000 dollars for that purpose, and for the defence of the frontiers of that State. Besides this sum, the citizens of New York had

given very considerable assistance towards the effecting the plan. All the United States had afforded to them for these works, were 17,522 dollars. When gentlemen remembered that in the city of New York was paid the last year four-fifteenths of the whole revenue of the United States, this must be acknowledged to be a mere trifle towards putting that port into a situation of making some defence against an enemy.

Mr. W. read the estimate of the Engineer employed upon the fortifications at New York, amounting to the sum of 101,968 dollars, which would be yet required to complete the whole of the works upon the three islands. He understood from the Secretary of War, who had been with the Committee, that after all the demands were satisfied, there would be about 12,500 dollars remaining. This sum, Mr. W. said, he believed would put their works in such a state as at least would prevent them from being injured by the ensuing winter. The Legislature of the State had risen without making any appropriation, but left the business to the United States. This being the case, he hoped the committee would consent to vote the sum he had mentioned for the purpose of at least preventing the works from going to decay.

Mr. S. SMITH said, he observed that nearly 26,000 dollars had been expended at Philadelphia; 17,520 dollars at New York; 18,000 dollars at Charleston. The gentlemen from Charleston and New York wanted further advances, and he supposed others would be wanting the same. He should move to have Baltimore noticed, and he doubted not it would pass around to all the seaports. He had, however, no objection to aid the State of New York, and would agree that they should apply 100,000 dollars of the debt they owed to the General Government for this purpose.

Mr. DAYTON (the Speaker) said, he would not agree even to the proposition of the gentleman from Maryland. He could not agree to any sum being voted for the fortifications at New York, until a session was made of the property to the Government of the United States.

Mr. GILBERT said, if gentlemen meant to show that there was a *bona fide* debt due from the State of New York to the General Government, he would meet them upon that ground; but he was sorry it was now brought forward. New York had herself done a great deal towards fortifying her harbor; she only expected from the United States what she was entitled to in common with the other States. He hoped, therefore, the resolution of the Committee would be agreed to.

A motion was made for the Committee to rise, in order to postpone the business.

Mr. LIVINGSTON said, he should be against the Committee's rising, and he could not help being surprised at the motion, and the reason assigned for it. They were assembled there, he said, to legislate for the whole United States; he felt himself not only a Representative of New York, but of the Continent in general. He looked to the interest of the whole. He hoped, therefore,

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the man who advocated the cause of a particular port would not be charged with partiality.

The question before the Committee was, the propriety of voting a sum of money for the defence of a very material port in the Union. Gentlemen who recollect the situation of the City of New York in the late war, will know the importance of having that port well defended. What prolonged the late war so much as the enemy being in possession of that port? What would prolong another war, if it were unfortunately to take place, so much as the possession of that port? Is it not, then, said he, of importance to have it well defended? Certainly. It is improbable that it will ever be attacked by land forces alone, the most easy means of attacking it is by a fleet; but when once possessed, it becomes difficult to dislodge an enemy from it.

He did not agree with his colleagues that the United States should only vote a sum which should be sufficient to preserve the works from decay; he thought they ought to vote a sum to complete them. It was a duty which the United States owe to themselves, not to the State of New York, to fortify that port against the attack of an enemy. He was sorry to hear brought forward the subject of the debt owing from New York to the United States. This was an account between the State of New York and the United States; but the money wanted to finish the works in question was not for New York only, but for the United States at large, as it was their interest to defend that city from the attack of an enemy.

Gentlemen believe that, all our foreign arrangements being settled, there is no occasion for paying attention at present to fortifying of harbors. He would observe, that our relation to foreign nations was of a very uncertain nature, and that nothing would show our prudence more than by attending to the security of our harbors in this time of peace; for, if the business was postponed, and any foreign Power should disregard the sacredness of a Treaty, New York might be taken possession of without resistance.

Since the transactions of New York had been called in question, he believed they might speak of them with honor. What State, besides it, had given \$200,000, and almost the labor of the whole city, towards completing the fortifications of their harbor? This, he thought, no trifling exertion; and though it may be said it was for their own defence, it was likewise for the defence of the United States.

With respect to the wants of any other port, they had no estimates at present brought forward. An estimate was before the Committee from New York, and, therefore, he hoped it would be agreed to. When estimates should be brought forward for other ports, he would vote for them, if it were judged proper or necessary to fortify such ports.

Mr. DAYTON (the Speaker) could not forbear to express his opinion that the importance of the fortification of the three islands, viz.: Governor's, Ellis's, and Bedloe's Islands, had been very much exaggerated by the gentlemen from New York. He really believed it to be a loss of labor and ex-

pense to fortify them with a view to defend the city against the approach and attacks of an enemy's fleet in case of war. They who should rely upon that defence, would fatally deceive themselves, for nothing was to him more certain than that with a leading breeze and favorable tide, ships-of-war would pass those islands however well fortified, supplied, and garrisoned, and would laugh at their impotent efforts to sink or even check them. He was ready to admit that they would be useful in aiding the city to protect itself against contagious diseases or riots frequently produced by the crews of armed vessels lying too near the town. In enforcing regulations for performing quarantine or embargoes, or for the anchorage of vessels at convenient distances, they would undoubtedly be advantageously instrumental, but when gentlemen spoke of them as affording complete defensive protection to the city, and drew from thence an argument in favor of a further expenditure of more than one hundred thousand dollars, he conceived it his duty to state to the Committee his determination to oppose such a grant, or rather waste of money, and his reasons.

Mr. D. was of opinion that if ever New York was to be defended by land batteries against a fleet, it must be done at the Narrows, and at vast expense by fortifications on Staten and Long Islands, and upon an artificial island to be made between the two, which, although very possible, would be a very difficult and costly work. He also declared that even if it were practicable to defend the city effectually by fortifying the three islands, he nevertheless would never vote one shilling more to be applied to that purpose until a session of jurisdiction was made to the United States as had been done by New Jersey in one instance, and by other States in frequent instances.

Mr. W. LYMAN said, he had had information from men on the subject who were as well acquainted with the nature of fortifications as the gentleman from New Jersey. It was their opinion that the harbor of New York could be fortified by the means now taken. The Committee, however, did not go into the subject. They considered only the sums expended, the sums necessary to put the works into a safe state, so as not to be injured by the weather. They were convinced of the importance of the place, and that it was a vulnerable part of the Union; nor did they conceive that because the citizens of New York lived in the most vulnerable place in the Union, they were to defend themselves. It appeared to them that New York had not received its full proportion of the appropriation which had been made for the fortification of the harbors of the United States.

It was said, no assistance ought to be given to these works because a session was not made of them to the General Government. Such sessions, he said, had been made but in few instances, none except Delaware.

In the last session of Congress, it was said that a session was not necessary. It was said purchase was sufficient, and they had accepted of a qualified session.

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He hoped those gentlemen who did not belong to New York would see the justice of this claim and support it. With respect to the debts owing by New York to the Union, when the question should come before them, (which it certainly was not now) he should give his opinion upon it.

Mr. SWANWICK was of opinion with the gentleman from New York [Mr. LIVINGSTON] that it was their duty to legislate for the whole; but it was very evident, he thought, from the conduct of that gentleman himself, that they could not altogether divest themselves of the feelings of locality. Neither did he think it necessary that they should do so. It was perhaps an advantage to the whole, that every man had a propensity to do that which would best correspond with the interests of his constituents; for, by this means, the whole Union would have a fair chance of being equally served, since it was equally represented.

Mr. S. said, he was generally in favor of fortifying our harbors; because, whilst we discard all ideas of fleets, we ought to attend to our internal defence, without which, we should be too much exposed to the attacks of an enemy. But he must confess, he joined in opinion with those who wished to extend them on a large and competent scale. He was told Pennsylvania required some additions to her works. She had made a grant of Mud Island Fort to the Union, not doubting but its proper preservation would warmly engage the consideration of Government.

He would call to the recollection of the gentleman from New York [Mr. LIVINGSTON] what he had said on the subject of piers. He was against the Delaware being partially attended to. When I came forward with respect to piers, said Mr. S., it was because they were wanted. That gentleman now came forward to ask for attention to the fortifications of New York, because they were wanted. One of the greatest advantages which the city of New York had over Philadelphia, was the facility with which its harbor could be entered at all seasons; but the danger to which it was exposed in time of war, was a balance against the advantages it had in time of peace.

Mr. S. said, as he trusted the gentleman would not oppose the erection of piers in the Delaware when necessary, he would not oppose the required assistance to the fortifications at New York. He thought the House could not be employed better than in keeping up such means of defence as we had in our power.

Mr. LIVINGSTON said, he did not choose to dispute the military knowledge of the gentleman from New Jersey [Mr. DAYTON] but he had some confidence in the knowledge of the PRESIDENT OF THE UNITED STATES with respect to fortifications. It could not be with a reference to the enforcing of a performance of quarantine, which a single gun might effect, that he had approved of the plan of the fortifications which had been pursued for the defence of New York. The Legislature of New York, with the best advice they could procure on the subject, had expended \$200,000, the Legislature of the United States had granted \$17,522, towards their plan, and it had been ap-

proved by the PRESIDENT; yet the gentleman from New Jersey seemed to speak as if he were the sole judge of what was the best defence for New York. He himself was no engineer; but he had conversed with engineers on the subject, and had been told that the plan was a good one.

One word as to the cession. It was said New York had not made any cession of these fortifications to the Union, and, therefore, they were not bound to give any assistance towards their completion. In what situation, he asked, would the State of New York have been, had they made this cession? They would have made a cession to the United States of the grounds on which the fortifications stand, and then the United States would have refused to appropriate the moneys necessary to complete them. So they must have sat with their hands folded, without assistance. He thought the State of New York had done wisely, at least to keep possession of the property in their own hands. When the United States were disposed to complete the works, a cession, he doubted not, would willingly be made, but not till then.

His friend from Pennsylvania [Mr. SWANWICK] had recurred to his observations with respect to the erection of piers in the Delaware. He then and now thought them a local advantage to Philadelphia, which ought to be done at their own expense, as much so as docks, or any other convenience for shipping; but what he requested was a different thing. The people of New York, at the time of forming the new Constitution, had been much opposed to adopting it on account of some principles ingrafted into it about which they had fearful apprehensions. Every consideration was urged to induce them to accept of it. Alluring prospects were held out to them to accept of great advantages that must result in consequence of the adoption of it, and, since they had accepted it, he called upon the other States to afford them that protection which they had a right to expect.

The gentleman from Pennsylvania had told him that, in expectation of his voting for the piers wanted in the Delaware, he should support the present motion; he wished for this, but he could not agree to accept it on such conditions. He did not think the erection of piers in the Delaware within the purview of the United States; but, what he asked for was, assistance in the completion of works to defend one of the first cities in the Union.

Mr. WILLIAMS trusted, when gentlemen considered the great expense which had attended the fortification of the harbor of New York, they would at least consent to grant such a sum to their support, as would at least preserve them from decay.

The law had authorized the PRESIDENT to erect such fortifications in the different ports of the Union as he should judge proper. The whole sum of money which had been appropriated for the purpose was expended, within \$23,877; but eight or ten thousand of these are yet due, so that there remain only from thirteen to fifteen thousand dollars undisposed of. The Committee had made an estimate with respect to the fortifications at New

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York which would nearly come to that sum, by which the works would be preserved from decay. And surely, said Mr. W., the United States would not wish that all the money which had been expended and the immense labor which the inhabitants of that city had voluntarily contributed should be lost, for the want of a little timely assistance. He thought the State of New York had a Constitutional demand upon the Union for assistance. [Here Mr. W. cited that part of the Constitution which says Congress shall provide for the common defence and general welfare, &c.] He would ask, what had been done for New York in return for the vast revenues which were collected from it? Very little, indeed. Notwithstanding what had been said by the gentleman from New Jersey, he believed the fortifications, when completed, would be a good defence for New York. He was formerly of the same opinion with that gentleman; but, from the information he had received on the subject, and, from a view of the works, he believed the city would be well fortified, when they were finished. Nothing but a large fleet could affect them; and in that case, he believed the Narrows was the only place at which the city could be successfully defended.

It was not a trifling thing, he conceived, to the United States, to have the city of New York well secured; for if they recurred to the public accounts, it would be found, that since the commencement of the Government in 1788, in that city had been received one fourth of the revenue of the whole United States. Was this city, then, not worthy of some attention? It certainly was; for it must be accounted one of the first cities in the Union, and in proportion to its prosperity would the revenue of the Union increase. He hoped, therefore, there would be no objection to an appropriation of the sum he had mentioned, in order to preserve the works from destruction; by doing this, it would not only add to the securing the revenue of the United States, but also operate as an encouragement to the extension of that city; policy as well as interest justified the appropriation.

Mr. S. SMITH did not expect this subject would have occupied so much time as had already been consumed in it. He agreed that they should consider themselves as members of the whole Union; but that members were concerned chiefly for the ports in their own States, was pretty evident from the present question. Three or four members had already been up to speak for improvements in the ports they represent, and he doubted not they should have others making similar applications. He did not mean to reflect upon gentlemen for thus acting. He felt the same impulse.

The Secretary of War reported that Governor's Island was complete; but, when he turned to Baltimore, he found nothing done. Though he had a great respect for the Union, yet he must respect the situation of his constituents where every thing was incomplete; if he did not, he should be unworthy of their confidence.

The gentleman from New York, [Mr. LIVINGSTON] seemed indisposed to set off a part of the

debt due from that State to the Union, by expending it on the fortifications. He ought not to take offence at this. If the State of Maryland had been indebted to the Union \$150,000, he should have been glad to have set off a part of it in a similar way. He would, however, much rather all the States would pay their debts. They should then have four millions in hand which they had not. The gentleman had spoken of the sacrifices made by the State of New York in coming into the Union. The blood and treasure of every State had been liberally expended in obtaining their independence, and it was for the common interest that they should unite in preserving and completing it. The State of New York was in a rich and flourishing state; she had no taxes; and yet, when he mentioned the paying of a just debt the gentleman took offence.

Mr. S. said, he agreed perfectly with the gentleman from New Jersey, [Mr. DAYTON] that the defence would be futile; so much so, that he would venture to say that any fleet which would ever come to attack that port, would have no dread of these fortifications. His objection was to their taking up the thing at all at this late part of the session; but to take it up early in the next session.

Mr. WILLIAMS said, there was a mistake in the report of the Secretary of War respecting Governor's Island. It was not half finished. It would take \$40,000, to complete it. He had taken pains to get the mistake explained, by procuring the estimate from the Commissioners and Engineer employed on the fortification, which he had read.

Mr. HAVENS said, that when the subject of fortifying the port and harbor of New York was under the consideration of the Legislature of that State, it was supposed that the harbor could not be put in a complete state of defence against a large maritime force unless fortifications were to be erected at the Narrows, according to the plan which had been suggested by the gentleman from New Jersey, [Mr. DAYTON] and which could not be effected, unless an artificial island were to be made on a shoal on one side of the channel, on which a large fort and battery must be erected, and another fort and battery opposite to it, on the shore of Staten Island; but it was estimated that such a mode of defence could not be completed at a less expense than two millions and a half, or perhaps three millions of dollars; it was therefore out of the question, so far as it respected the resources of the State. But notwithstanding this, the Legislature conceived that it would be a patriotic exertion on their part, so far as respected the United States, as well as necessary on the principle of self-defence, for them to apply the resources of the State to the erection of fortifications in the vicinity of the city, upon such a plan as might enable the citizens to defend themselves against any sudden attacks of any considerable force by sea. And this measure appeared the more indispensably necessary, when it was found that the Government of the United States had granted so small a sum for the defence of the port, as clearly proved that they were either unable or unwilling

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to contribute the sums that were necessary to put the port and harbor in a situation that might be called a state of defence. The plan which had been adopted of erecting fortifications on each of the three islands in the harbor, he believed, was the best that could have been devised, under all the existing circumstances; he therefore differed in opinion with the gentleman from New Jersey, [MR. DAYTON,] with respect to the advantage that must result from completing these fortifications, and conceived that the gentleman had expressed himself in too strong terms, when he had said that these fortifications could be of little use except to compel vessels to ride quarantine. He said that he had viewed these fortifications himself, and had conversed with engineers and persons of military skill on the subject, and believed that when they were completed they would be equal to the defence of the city against a considerable force by sea, and was inclined to think that a force of four or five ships-of-the-line would not venture to attack the city, when they must necessarily pass and repass or lie before fortifications so constructed as to fire red hot shot in a variety of directions, from cannon placed on a new kind of carriages, which elevated them above the parapet.

With respect to what had been said by some gentlemen, that a complete cession of the jurisdiction of the grounds or islands on which the fortifications have been erected ought first to be made to the United States, before they expend any money to complete them, he should only answer as his colleague [MR. LIVINGSTON] had already done, that it was not at all probable, nor could it reasonably be expected, that the Legislature of the State of New York would make a cession of the jurisdiction of those places to the United States, unless they could receive some certain assurance that the United States would afterwards take effectual measures to complete the fortifications in such a manner as to make it appear probable that they would prove an effectual protection to the city of New York against any sudden attack by sea.

Some gentlemen had said, that the sums which had been expended by the State in erecting those fortifications ought to be set off against the debt which was said to be due from the State to the United States; to this he should only reply, that those gentlemen had, on a former occasion, been volunteers in undertaking to pay the debts of the State of New York, when they assumed the debts of the several States. The State of New York had never requested them to undertake to pay the debts of the State; they had the means in their power of discharging those debts themselves, and would probably have done it, had not the United States interfered and voluntarily taken this burden upon themselves. The greater part of this debt said to be due to the United States had been contracted in that way, and gentlemen should recollect when they said things which implied that the conduct of the State was censurable because they had not yet manifested a disposition to pay this debt, that they had, on a former occasion, been

volunteers in bringing the United States into this predicament. It had been acknowledged, in the course of this debate, that when public moneys were intended to be distributed for this or similar purposes, it was a thing that was always to be expected that local prejudices would prevail, and that gentlemen would naturally wish that a large portion of the public moneys should be expended in defending that particular port or part of the Union from which he might happen to come, and that this was therefore a thing that was to be expected from the members from the State of New York; but, if it was acknowledged that local prejudices of this kind would have an influence in the representation of the United States, there was equal reason to presume that similar prejudices would prevail in the representation of the State of New York, and that therefore it could not reasonably be expected that the Legislature of that State could be easily induced to expend further sums of money in completing these fortifications; and he believed he could say, with truth, that the members who came from parts of the State remote from the city of New York, had been with difficulty prevailed upon to vote in favor of expending the sums of money that had already been laid out on these fortifications, and therefore it could not be presumed that they would vote for the expenditure of further sums for that purpose. He believed, therefore, that the United States had now a choice before them, either to agree to the report of the committee and expend the sum of money stated by them as necessary to preserve these fortifications from decaying, or lose all the advantage which must result to the United States from the large sums of money which had been already expended by the State of New York in erecting them. The sum proposed was certainly not a large one, and he hoped that the other parts of the United States would consider the defence of the city of New York of so much importance, as to induce them to expend the moneys which had been reported by the committee as necessary for that purpose.

MR. HENDERSON moved that the Committee might rise. They had not time to consider the subject at present, so as to do what was necessary in every part of the Union; and as there appeared to be little danger likely to arise from a postponement of the business, he hoped it would be postponed.

The motion for the Committee to rise was put and carried.

MR. KITCHELL moved that the Committee be discharged from a further consideration of the report.

MR. LIVINGSTON hoped the yeas and nays would be taken upon that question. It was extraordinary, he said, that when a port was lying in the defenceless state in which New York lay, a grant of money should be refused, because there were other ports in the Union which wanted also, but from which no estimates had been received.

MR. HILLHOUSE said he had no objection to the yeas and nays being taken. The subject should have been brought forward more early in the ses-

sion, and then it might have been attended to. He was willing to give his aid in protecting the city of New York. He felt interested in it; but he saw no necessity for plunging into the business at once. He should vote for discharging the Committee. There were yet seventeen thousand dollars of the appropriated money remaining unexpended, which, if the PRESIDENT pleased, he could apply to that object.

Mr. LIVINGSTON believed there was not that sum unexpended.

Mr. GILBERT hoped the Committee would have leave to sit again. A small appropriation, he said, was only wanted to secure all the money that had hitherto been expended upon the fortifications. This was not to be withheld because it was improper to grant it, but because other ports required attention also. It was the interest, and he considered it to be the duty, of the Union, to secure the money which had already been expended. It had been said, the fortifications would be of no service. He was sorry this had not been discovered sooner. He understood they were under taken under the direction of the United States.

Mr. W. SMITH said he should vote for the Committee's having leave to sit again; not for the same reason as the gentleman from New York, but because he wished some attention to be paid to the fortifications of Charleston. He wished this, first, because he thought there was more urgent occasion to attend to the fortifications there than at New York; secondly, because the State of New York owed the United States a large debt; and thirdly, because that State was immensely rich. They owed a balance, which had been ascertained by a commission, sanctioned by their delegates, on the 1st of January, 1790, of more than two millions of dollars. The interest of this sum was upwards of one hundred thousand dollars annually, and there was now due for interest alone upwards of six hundred thousand dollars. So that the sum necessary for the completion of their fortifications might very well be set off against this interest. He found, from a statement of their finances, that this State had upwards of two millions of dollars of funded debt, besides large sums in their treasury, and that they had no taxes; and, whilst they had large treasures, and no taxes, he did not see why they should be attended to in preference to other States. He thought it had the least claim to be favored by the General Government of any State in the Union. South Carolina, he said, had already advanced twenty thousand dollars out of her treasury towards their works, and the State of South Carolina was by no means in the same flourishing condition as New York; they were obliged to pay taxes, and they owed considerable debts.

Mr. LIVINGSTON did not suppose that this question was to be tried by the merits of different States. It had been said, by the member from South Carolina, [Mr. W. SMITH,] that the State of New York came with an ill grace to ask favors. What! (exclaimed Mr. L.) after expending two hundred thousand dollars out of their own treasury, on the fortifications of their harbor, shall the

State of New York be said to be asking a favor, when they ask for a small sum of the General Government to keep the works from destruction? This was a request to avoid which gentlemen found themselves under a necessity to go into a business with which it had not certainly any connexion. The gentleman from South Carolina thought himself justified in asking for support to the works at Charleston, because they owed nothing to the General Government. He did not think this a place for recrimination; if he did, he should not find himself wanting in materials. He could look upon the three millions of debt from which South Carolina had been exonerated—he could look upon the desertion of New York when it most wanted assistance in the time of the war—and he could have added that this very State had since been charged with a debt which had been accumulated by the delinquency of other States. This was not the object, or he could easily enlarge. All that the State of New York at present asked was, a few thousand dollars, to prevent their works from going to ruin. Gentlemen talked of their wants for their respective ports; let them bring forward their claims. He should be disposed to vote for the assistance wanted by the gentleman from South Carolina. He did not know what was necessary, but, when he did, he trusted he should be willing to grant such a sum as might be wanting. It had been asked, why this business had been delayed? It would be found that the subject was taken up early in the session, but that it had been retarded by various causes, which could not be avoided.

Mr. WILLIAMS said, the committee had been appointed early in the session, they had had many objects in view, and for two or three weeks their chairman was ill. The gentleman from South Carolina had said, that because New York owed a debt to the Union, they had no claim upon the Union; another gentleman, from Maryland, [Mr. S. SMITH,] had observed that they would give New York credit for what she expended; but, Mr. W. observed, these observations might be well spared, especially when they considered the great sacrifice New York had made by giving up such vast revenue—that their capital, and six counties adjacent to it, was in the hands of the enemy during the war—that one-third of the city of New York was burnt by the enemy, also the fine town of Esopus—their frontiers overrun, and the buildings destroyed—and that not one country in the whole State escaped from the ravages of the enemy. And, notwithstanding all this, it is said New York is a debtor State. Why? Because a retrospect act had passed for the settlement of the accounts between the United States and individual States, varying from the compact under the Confederation, and adopting a principle which could not be justified, to wit: estimating according to the number of inhabitants, seven years after the war, when the number was increased double, and with those from creditor States, which if they had not removed, would have been entitled to receive, instead of paying; and also, the Commissioners making no difference for articles furnished by the State

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of New York, at prices fixed by the limitation act of that State, when for the like articles and delivered at the same time with those of another State, for which other States were allowed ten times as much as the State of New York. Mr. W. would be ready to prove they owed nothing. He should be glad to meet gentlemen on that ground, when he would show that the debt was upon a foundation which could not stand.

The gentleman from South Carolina said, the State of New York was rich, and therefore they had no claim upon the Union. If they were rich, they ought to be encouraged. If the States were not rich, it was the fault of their members. The inhabitants of the State of New York were an industrious people, who took time by the forelock; but, because they had a few coppers in their pockets, was that a reason why they should be taken from them? He gloried that their State was rich, and if other States were equally industrious, they would be equally rich.

Mr. W. LYMAN spoke in favor of the Committee's having leave to sit again.

Mr. BOURNE observed, that the gentleman from New York said it was absolutely necessary that something should be done to prevent their works from going to destruction, and that if nothing was now appropriated that must be the case. He believed there was a considerable sum of the money appropriated which remained unexpended, and the President, if he believed it necessary, would doubtless suffer it to be expended on the works at New York.

Mr. HILLHOUSE said, there was twenty-three thousand dollars unexpended, which would be more than enough for New York.

The Committee now rose, and on motion being made for the committee to have leave to sit again. Mr. LIVINGSTON called for the yeas and nays, which were taken, and stood—yeas 14, nays 64—as follows:

YEAS.—Theodorus Bailey, William Cooper, Ezekiel Gilbert, Henry Glen, John Hathorn, Jonathan N. Havens, Edward Livingston, William Lyman, Francis Malbone, William Smith, Uriah Tracy, John E. Van Allen, Philip Van Cortlandt, and John Williams.

NAYS.—Abraham Baldwin, David Bard, Thomas Blount, Benjamin Bourne, Theophilus Bradbury, Richard Brent, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Thomas Claiborne, John Clopton, Joshua Coit, Jeremiah Crabb, George Dent, Samuel Earle, William Findley, Abiel Foster, Dwight Foster, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Chauncey Goodrich, Andrew Gregg, Roger Griswold, William B. Grove, George Hancock, Robert Goodloe Harper, Carter B. Harrison, Thomas Hartley, John Heath, Thomas Henderson, James Hillhouse, William Hindman, James Holland, Aaron Kitchell, John Wilkes Kittera, George Leonard, Matthew Locke, Samuel Lyman, Samuel Maclay, Nathaniel Macon, John Milledge, Andrew Moore, William Vans Murray, Anthony New, John Nicholas, Josiah Parker, Francis Preston, John Reed, John Richards, Samuel Sitgreaves, Nathaniel Smith, Israel Smith, Samuel Smith, Richard Sprigg, jr., John Swanwick, Zephaniah Swift, Absalom Tatom, George Thatcher, Richard Thomas, Mark Thompson, Peleg Wadsworth, and Richard Winn.

The Committee of the Whole was then discharged from the further consideration of the report.

Mr. TRACY, from the Committee of Claims, made a report on the petition of the widow of General Greene, which stated that Messrs. Harrison and Blackford, merchants, of Great Britain, had obtained a final decree, in the Court of Equity, of Charleston, against the heirs of General Greene, for a sum of more than 7,000 pounds sterling, as surety for the house of Hunter, Banks, and Co.; that this surety being given for the necessary provisions of the Southern Army, when it was in the most distressed condition, at a time when he had no other alternative than to risk his private fortune or disband the Army, his widow prays for payment from Congress. The report, which was in favor of the petitioner, was twice read, and referred to a Committee of the Whole to-morrow. On a motion for postponement of the reference, on the ground of some doubts on the subject, a number of observations took place, but the motion being withdrawn, the report was referred as above.

Mr. GALLATIN called up two resolutions, to the following effect, laid upon the table by the Committee of Ways and Means some days ago:

Resolved, That — dollars be provided for the payment of various incidental demands, occasioned by trials of persons for crimes and offences during the late insurrection, not heretofore provided for.

Resolved, That an additional compensation ought to be made for the services of marshals, jurors, and witnesses, in the Courts of the United States during that period."

Which were agreed to, and a bill or bills ordered to be brought in.

Mr. S. SMITH wished the House to resolve itself into a Committee of the Whole on a bill which originated in the Senate, to regulate the compensation of clerks; which was accordingly done. The Committee rose, without making amendments. The House took it up: when Mr. W. SMITH proposed to add: "That there be allowed for the year 1796, to the principal and other clerks in the office of the Secretary of the Senate and Clerk of the House of Representatives — dollars each, in addition to their compensation." The amendment was agreed to, and the bill ordered to be read a third time to-morrow.

CONTESTED ELECTION.

Mr. VENABLE, from the Committee of Elections, made a further report respecting the election of ISRAEL SMITH, stating the number of votes in the towns of Hancock and Kingston, and that it was by accident that the warrants of election were not sent to those places. Ordered to lie on the table.

SATURDAY, May 14.

Mr. NICHOLAS, from the committee to whom was referred the bill from the Senate relative to the relief of persons imprisoned for debt, made a report of some amendments to the bill, which

were ordered to be referred to a Committee of the Whole on Monday.

The bill from the Senate for regulating the compensation of clerks, was read a third time; but, on motion of Mr. KITCHELL, who said he wanted information on the subject, it was referred to the Committee of Ways and Means.

COMPENSATION TO PUBLIC OFFICERS.

The House resolved itself into a Committee of the Whole on the bill making an additional allowance to certain public officers for the year 1796, which it went through, with an amendment, including amongst the officers whose salaries are proposed to be advanced for the present year, the Secretary of the Senate and the Clerk of the House of Representatives. This amendment met with some little opposition, on the ground that these officers were not obliged to reside in Philadelphia the whole year, but the contrary appearing to be the case, it was agreed to. The House took up the amendment, agreed to it, and the bill was ordered to be engrossed for a third reading.

PIERS IN THE DELAWARE, &c.

The Committee of Commerce and Manufactures, to whom was referred the report of the Secretary of the Treasury on the memorial of sundry merchants of Philadelphia, praying for the erection of an additional pier in the river Delaware, and that an inquiry might be made what was necessary to be done for the security of vessels entering other ports of the United States, reported a recommendation that the business should lie over till the next session of Congress.

The Committee did the same also with respect to a resolution referred to them, to make inquiry whether any, and, if any, what, alteration was necessary in the laws regulating commerce and navigation.

SURVEY OF THE SOUTHERN COAST.

The Committee of Commerce made a report on the petition of Parker, Hopkins, and Meers, and a report heretofore made, that they find the surveys and charts of the sea-coast, made by them, extremely imperfect and incorrect; and, considering the great importance of an accurate survey of the coast, the committee have extended their views on the subject, and recommend that the PRESIDENT be allowed a certain sum, to enable him to get such a survey accomplished. The report was read a second time, but its further consideration was postponed to the 1st of December next.

LIGHT-HOUSES, BEACONS, &c.

A bill was reported to continue in force for a limited time the acts therein mentioned, viz: one for supporting light-houses, beacons, buoys, public piers, &c., and another respecting penalties under the revenue laws; which was twice read, and ordered to be referred to a Committee of the Whole on Monday.

Also, a bill making an appropriation to satisfy certain demands incurred in trials for crimes and offences during the late insurrection, and for allowing additional compensation to marshals, ju-

rors, and witnesses; which was twice read, and referred as above.

LAND FOR MILITARY SERVICES.

The House resolved itself into a Committee of the Whole, on the bill regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the heathen. After having spent some time therein, and made some few amendments, the Committee rose, and the further consideration of the subject was postponed till Monday.

WEIGHTS AND MEASURES.

The House formed itself into a Committee of the Whole on the following report of the committee to whom were referred so much of the report of the Secretary of State, of the 13th of July, 1790, and the Message of the PRESIDENT OF THE UNITED STATES, of January 8, 1795, as relate to Weights and Measures. The committee report—

"That they have examined into the subject referred to them, and are of opinion that the following principles ought to be assumed in regulating the standards of Weights and Measures in the United States:

"1. That all measures of surface, capacity, and weight, ought to be regulated by measures in length.

"2. That the unit of measures in length, and the unit of weights to be adopted as standards, ought not to vary in any very sensible degree from the present foot now in use, and the present pound avoirdupois.

"3. That the objections against assumed standards, on account of their being arbitrary, and always liable to be injured or lost, make it a matter worthy the attention of an enlightened Legislature to refer to some certain measure in length derived from an uniform principle in nature, more especially if it can be made to appear that reference may be had to such a measure, with sufficient certainty of uniformity, in the result of different experiments, and without much time, trouble, or expense, in making them.

"In order to carry into effect the first and second of these principles, reference need only be had to a very remarkable correspondence which is said to exist between the avoirdupois pound and the English standard foot; it having been ascertained that one thousand ounces avoirdupois, of rain water, will fill a cubic foot of English standard measure with great exactness; and for carrying into effect the third principle, little doubt can be entertained but that recourse ought to be had to the pendulum rod, vibrating seconds of mean time in any given place and in any known temperature of the atmosphere; because this will, without doubt, furnish a standard derived from an uniform principle in nature more certain and easy to be obtained than any that hath hitherto been discovered; by which a measure in length may be ascertained, differing very insensibly in the result of different experiments; and by which the unit in measures of length to be adopted as a standard in the United States may therefore at all times be regulated. The committee are therefore of the opinion that one or more experiments ought to be made in the city of Philadelphia, to ascertain the length of the pendulum rod, vibrating seconds of mean time; and that, after such length shall be obtained, the present foot ought to be compared with it; and if it appears not to bear any even proportion to it, then such a standard foot ought to be assumed as shall bear an even propor-

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tion to it, and which will not vary, in any sensible degree, from the length of the foot now in use; and that, after such a standard foot shall be obtained, one or more experiments ought to be made to ascertain the weight of a cube of rain water, which shall be equal to the one-thousandth part of a cube whose side shall be the aforesaid standard foot; and that sixteen times the weight of such a cube of water ought to be the unit of weights or pounds avoirdupois; and that after this unit of weights or pound shall be so ascertained, experiments ought to be made to ascertain the weights of such divisions of this unit or pound, as shall be most convenient for the purpose of weighing all substances that require exactness in the weight, such as the precious metals, and the like, and in making these, the four following methods of dividing the pound have been contemplated by the committee:

"The division of the pound, in a decimal ratio, until it shall be divided into 1,000 parts, and the division of each of these into seven parts, which will divide the pound into 7,000 parts.

"2. The division of the pound, in a decimal ratio, the smallest weight in common use to be the ten thousandth part.

"3. The division of the ounce into 18 parts, and each of these again into 24, which will divide the pound into 6,912 parts.

"4. The division of the ounce, in a decimal ratio; the least weight in common use to be the one thousandth part, which will divide the pound into 16,000 parts.

"The least weight in the first of these divisions will be the present troy grain, and the remaining will bear the following proportions to it: that is, the second will be to the present troy grain as 7 is to 10; the third as 7,000 to 6,912; the fourth as 7 to 16. Of these respective divisions, the committee are of opinion that the second and last are preferable, because they may be more easily introduced, will better accommodate themselves to decimal arithmetic, and in the least divisions, before mentioned, will produce weights less than the present troy grain, and which must, therefore, be sufficiently exact for most purposes. The committee have conceived it unnecessary to come to any particular determination about the divisions of the foot, or respecting the contents of the gallon and bushel, until it shall be determined whether experiments shall be made relative to this subject; and they would therefore submit the following resolutions:

"*Resolved*, That the President of the United States shall be authorized to employ such persons, of sufficient mathematical and philosophical skill, as he shall think most proper, for the purpose of making the following experiments, the result of which shall be reported to Congress at their next session:

"1. To ascertain the length of a pendulum rod of iron, of a cylindrical form, whose diameter shall not exceed the one hundred and twentieth part of its length, which shall perform its vibrations in one second of mean time, in an arc not exceeding four degrees, and in the latitude of the city of Philadelphia, at any place between the rivers Delaware and Schuylkill, and at a known height above the level of common high water in the river Delaware, and in a known temperature of the atmosphere, according to Fahrenheit's thermometer, both to be ascertained when the experiment shall be made; and after its length shall be ascertained, by one or more experiments for that purpose, a standard foot, to be the unit of all measures in length for the United States, shall

be derived from it, which shall be equal to, or shall not sensibly vary from, the present foot now in use, and which shall bear an even proportion to the length of such pendulum rod.

"2. To ascertain the weight of a cube of rain water, of a known degree of heat, according to Fahrenheit's thermometer, to be ascertained at the time when the experiment shall be made, which shall be equal in quantity to the one-thousandth part of a cube whose side shall be equal to the standard foot ascertained by the pendulum rod, in manner as above directed; which weight of water, when so obtained, shall be the standard ounce avoirdupois; sixteen of which shall make the pound avoirdupois; and the pound, when so determined on, shall be the unit weight for the United States.

"3. To ascertain the respective weights of the following divisions of the pound and the ounce:

"1. The division of the pound, in a decimal ratio, into 1,000 parts; and the least of these again into 7 parts.

"2. The division of the pound, in a decimal ratio, into 10,000 parts.

"3. The division of the ounce into 18 parts, and each of these into 24 parts.

"4. The division of the ounce, in a decimal ratio, into 1,000.

"*Resolved*, That a sum not exceeding one thousand dollars ought to be appropriated for the purpose of defraying the expenses that may arise in making the foregoing experiments."

Mr. KITCHELL said, that the best way of doing this business would be to refer the whole to Mr. Rittenhouse, and let those members who wished to understand the subject go to school to him.

Mr. HAVENS said, he should be sorry to confess himself so altogether ignorant as the gentleman from New Jersey [Mr. KITCHELL] had professed himself to be, concerning this or any other subject about which it was necessary for him to decide, as a member of a Legislative body. If he had found himself so totally uninformed as the gentleman had professed himself to be, he should certainly endeavor to inform himself as well as he could before he was called upon to vote upon the question. The subject of Weights and Measures was certainly a matter of importance to the United States, and an uniformity in them much to be desired: particularly in some of the measures of capacity, as, for instance, in the bushel, in which there was considerable variety in the different States. This want of uniformity, he said, was not confined to the United States only, but was a subject of complaint among the nations of Europe. In England, in particular, there had been various standards established at different times by different acts of Parliament, which must have produced considerable embarrassment and much uncertainty on the subject, as would appear evident to any one who would take the trouble of examining the report of the late Secretary of State on this subject. The select committee, in forming the report then under consideration, he said, had endeavored to avoid those difficulties, which they supposed had heretofore prevented the introduction of uniformity in our Weights and Measures, on the principles contain-

ed in that report. It had been proposed, in that report, that an experiment should be made in the latitude of 45 or 38 degrees, to ascertain the length of a pendulum rod, a certain given portion of which should be the standard foot of the United States. The expense attending such an experiment, the committee had conceived, was the principal reason why the proposal had not been adopted, and, to avoid this, they had proposed that such an experiment should be made in the city of Philadelphia, under circumstances that would produce the same uniformity, and would therefore answer the same purpose to the United States. The committee had conversed with a gentleman, [Mr. Rittenhouse,] whom it was probable the PRESIDENT would employ on such an occasion, concerning the probable amount of the expense that would attend the making such experiments as they had recommended in their report, and were informed by him that it might not exceed five hundred dollars, but that one thousand dollars might be considered as amply sufficient. The committee had, therefore, inserted that sum in their report, as the highest that would be probably wanted for the purpose. It was a thing well known to persons who had paid any attention to subjects of this nature, that a cubic vessel whose side was equal in length to the English foot, would hold one thousand ounces avoirdupois of rain water; the committee had, therefore, recommended an experiment of that kind to be made, in order to ascertain the weight of the avoirdupois pound, which they proposed to adopt as the standard, and to lay aside the use of the troy pound. This was agreeable to a report of a former committee of the Senate upon the subject, and he had never heard any person make any objection to such a regulation. In short, the committee had studiously endeavored to remove every solid objection which might be brought against directing experiments to be made that would ascertain standards derived from such principles in nature as would produce the uniformity desired. It had been their intention to deviate no farther from the present prevailing habits of the people than was absolutely necessary to produce uniformity, the great object which ought to be had in view; they had no idea of introducing any unnecessary novelties in the Weights and Measures of the United States; they only wished such experiments to be made as appeared necessary, in order to obtain a natural standard; these they proposed to be made in the summer ensuing, and, at the next session, Congress might again take the subject into consideration, and, after knowing the result of these experiments, might regulate the standards by them in such manner as should then appear most eligible.

Mr. COOPER rose and said, ludicrously, that whilst the report was reading, it put him in mind of the following lines, which he had read in the *Deserted Village*:

"While words of learned length and thundering sound,
Amaz'd the gazing rustics rang'd around;
And still they gaz'd, and still the wonder grew,
That one small head could carry all he knew."

Mr. PAGE wished those gentlemen who spoke upon this subject would speak as it became legislators; and those who did not understand the principles of the report would do well to be silent. He did not himself boast of any superior knowledge on this subject; but, as he had been put upon the committee, he should wish to say there was great propriety in attempting to obtain the end which the select committee had in view; and he hoped the Committee of the Whole House would have no need to go to school to Mr. Rittenhouse, as had been proposed by the gentleman from New Jersey, [Mr. KITCHELL,] unless they were more disposed to ridicule what they did not comprehend than to receive information on the subject. He would not, indeed, attempt to teach gentlemen who knew nothing of the first principles of calculation; perhaps Mr. Rittenhouse himself could not do this.

The English and French nations, Mr. P. said, had for some time been engaged in the pursuit of a certain mode by which to regulate and make uniform their Weights and Measures. The French had gone on in the business, and attained a standard, which they had forwarded to the United States. The Senate, he said, had made a report on the subject. The committee had considered both.

Mr. P. said, he would first show that a standard was wanting. There were now in use the ell, the yard, the British foot, and so on, and a great variety among the several standards of the foot. The size of the bushel, likewise, varied in different parts of the country. To fix a standard by which to regulate Weights and Measures, you must have recourse to some unalterable length in nature. It was well known that the length of a pendulum rod which will perform its vibrations in a second of mean time, would always be the same in the same latitude and temperature of the air. And when that length is once known, the standard can at all times be regulated by it. The French had proceeded in another manner to obtain an invariable length, derived from a certain principle in nature; they had measured the length of an arc of the meridian, and from that they had determined the length of the ten-millionth part of one-quarter of the meridian of the earth, and had adopted this length as their standard. We have not, said Mr. P., proposed an undertaking so great and expensive as to measure any portion of the earth's meridian. All that we propose is, an experiment which will ascertain the length of a pendulum rod vibrating seconds of mean time. We request this at this time, said he, because we have in this city at present three or four gentlemen who are doubtless equal, if not superior, to any in the world for performing an experiment of this kind, and who will no doubt undertake it; and for the credit of the United States, and for the benefit of the country at large, he hoped the experiment would be made this Summer.

Gentlemen who thought the report so very mysterious, could not see how this business was to be effected by this experiment; he would therefore inform them, that, by it would be ascertained

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a certain standard in length, which at present exists no where.

There would be but little difference betwixt the present foot and the standard foot to be established. It was a fortunate circumstance for science that it had been well ascertained that the English foot was equal to the side of a cubed vessel which would contain 1,000 ounces avoirdupois of rain water; and, after knowing the weight of a cubic foot of rain water, you may easily regulate by it the unit of weights, which may afterwards be subdivided decimally, or in such manner as shall be most convenient for weighing coin, or any other substance requiring less exactness in the weight; but he would not be too particular on a subject of this kind, lest some gentlemen should by and by call upon him to explain what he meant by vulgar fractions and decimal fractions.

He thought it was of importance to ascertain, whilst we have men of genius amongst us, the standard proposed, and not have to send to the 45th degree of latitude, nor undertake to measure any number of degrees of the meridian, as the French had done. These would be expensive things. All they asked for was \$1,000, and he trusted the enlightened world would say \$1,000 were never better expended.

He hoped the resolution would be agreed to.

Mr. S. SMITH said, he did not pretend to understand anything of philosophy or mathematics; but it was so desirable that the subject should be undertaken, that he was willing to agree to the resolution authorizing the PRESIDENT to employ suitable persons to make the experiment in question. Nothing was more worthy of their attention than the obtaining of uniform Weights and Measures. All commercial men felt heavily the disadvantages arising from the present inequality. He hoped the report would therefore be agreed to.

Mr. SWANWICK agreed with the gentleman last up. No fact was better ascertained than the great uncertainty of Weights and Measures. He had known various instances in which disputes had arisen from want of some certain standard by which to regulate Weights and Measures; and frequently the payment of a whole cargo disputed on account of a difference in the sizes of bushels. He could not say whether the plan now proposed was the best that could be adopted; but he thought the experiment ought to be tried. Every body was ready to acknowledge the evil existed, though few could say which was the best means of curing it. He thought the report a very ingenious one, and they would do wrong lightly to reject it. He was the more convinced of this from the ingenious observations which had fallen from the gentlemen from Virginia and New York on the occasion.

Mr. HAVENS said, that when he was last up, he had not gone into such a consideration of the subject as might make it necessary to introduce many observations of a mathematical or philosophical nature. He had endeavored to avoid such a discussion, lest it should be disagreeable, or might appear ridiculous to some gentlemen who had never attended to subjects of that nature; but, to

convince gentlemen that this was a subject of importance, and required some Legislative regulation, and that it ought not to be considered in a ludicrous point of light, as some gentlemen seemed to consider it, he would take the liberty of reading a part of the report of the late Secretary of State respecting the great variety of standard bushels which had been established at various times in Great Britain. [He then read that part of the report which states a great variety in the bushels of Great Britain.] From that country, said Mr. H., we derive our measures, and this had produced different bushels in the different States, but he believed the Winchester bushel was the most prevalent; for these considerations, he trusted it would be considered as worth while to expend the sum proposed in the report of the committee, in order to make the several experiments which had been proposed, and that no gentleman would consider it in a ludicrous or trivial point of light.

Mr. FINDLEY said, he should vote for agreeing to the report. He believed they were bound by the Constitution to regulate Weights and Measures. This being the case, why should they put off, from time to time, what the country stood so much in need of? It was not right, because every one was not a competent judge of the propriety of this report, that it should be rejected. He was obliged himself sometimes to decide on things which he did not perfectly comprehend; this would not prevent him from voting for an experiment which, though not clear to him, might be of the greatest advantage to the United States, and perhaps to the world at large. He was so far a judge of the business as to believe the experiment was necessary, and that it could be done. He hoped the report would be agreed to.

Mr. DAYTON (the Speaker) said, the subject of Weights and Measures was very important, and to no country more so than to the United States, as every State had its different Weights and Measures, which caused the greatest uncertainty in all commercial transactions in which they were concerned.

Mr. D. owned his philosophical and mathematical knowledge was not sufficient to form a correct judgment of the report before them; but he conceived it to be a very ingenious report, and one which did the committee great honor, and for which the House was much indebted. He thought they ought to do what the committee recommended. It would be money well expended. He hoped there would not be found a majority of that Committee who would think differently. He hoped the business would not be treated with levity, but that they should be disposed to treat it with that attention and candor which it deserved. The subject was of consequence, and as it had been stated that there were men now in Philadelphia who would be very able to execute the proposed experiment, he trusted they should afford an opportunity of its being effected, by granting the money required.

Mr. WILLIAMS said, that as they were about regulating the coin of the country, it was very de-

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sirable to have this experiment carried into effect at this time. Every one, he said, must acknowledge the great inconveniences which at present arose from the great uncertainty of Weights and Measures, and he trusted the report would be agreed to, that a fair chance may be given to effect a cure of the evil which all acknowledged to exist.

Mr. BALDWIN was in favor of the report. He had no idea of going much into the subject. The experiment proposed, he said, was only one step. Whether we should deviate much from our present bushel and foot would be a question afterwards to be decided. When they met, at the next session, the result of the experiment would be laid before them, and the comparison could be made. If this step was not taken, they might go on from time to time talking on the subject, without coming any nearer to the point in question. It was an experiment which could only hazard the loss of five or six hundred dollars; because, if when the experiment was made, it was not thought advisable to apply the principle discovered, the extent of the evil would be the loss of the money.

The question was put and agreed to. The Committee rose, and a bill was ordered to be brought in. A bill was afterwards brought in and passed with little opposition; but the Senate (probably from the lateness of the session) postponed the consideration of the subject to the next session.

MONDAY, May 16.

Mr. HARRISON reported a bill for ascertaining the uniform principle for regulating Weights and Measures; which was twice read, and ordered to be committed to a Committee of the Whole to-morrow.

A bill to continue in force for a limited time all acts relative to light-houses, piers, &c., and another for mitigating or remitting forfeitures under the revenue law, was read a second time, and ordered to be committed to a Committee of the Whole to-morrow.

COMPENSATION TO PUBLIC OFFICERS.

The bill making additional allowances to certain public officers for the year 1796, was read a third time, when the blanks were filled up. The first, which was to contain the additional sum to be allowed to the Secretaries of State, Treasury, and War Departments, Treasurer, Comptroller, Auditor, Register, Commissioner of Revenue, Purveyor, Attorney General, and Postmaster General, was proposed to be filled with the several sums of \$1,000, \$800, \$750, \$700, \$600, \$500, and \$400. After some discussion, a division was taken on the first sum, which was negatived, being only 19 for it. The sense of the Committee was next taken upon \$800, which was negatived, 45 to 31. Then upon \$750 and \$700, which were lost by the same divisions. And a division was then taken on \$600, and carried, 40 to 58. The next blank, which was to contain the additional allowance to be made to the Assistant Postmaster

General, the Secretary of the Senate, and the Clerk of the House of Representatives, was agreed to be filled up with \$500, there being, on a division, 41 in favor of it, which was declared to be a majority of the members present.

The Committee rose and reported the bill, and the House took up the consideration, and, being agreed to, Mr. JACKSON moved to have the yeas and nays taken upon the passage of the bill. They were accordingly taken, and stood yeas 49, nays 30, as follows:

YEAS.—Abraham Baldwin, David Bard, Benjamin Bourne, Theophilus Bradbury, Richard Brent, Gabriel Christie, William Cooper, George Dent, Samuel Earle, William Findley, Abiel Foster, Ezekiel Gilbert, William B. Giles, Henry Glen, Chauncey Goodrich, Roger Griswold, William B. Grove, Carter B. Harrison, Thomas Hartley, Jonathan N. Havens, John Heath, James Hillhouse, William Hindman, John Wilkes Kittera, Edward Livingston, Samuel Lyman, Francis Malbone, John Milledge, John Page, Josiah Parker, Francis Preston, John Reed, Robert Rutherford, Samuel Sitgreaves, Nathaniel Smith, Samuel Smith, William Smith, Richard Sprigg, Jr., Thomas Sprigg, John Swanwick, Zephaniah Swift, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Philip Van Cortlandt, Peleg Wadsworth, John Williams, and Richard Winn.

NAYS.—Theodorus Bailey, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, John Clopton, Joshua Coit, Isaac Coles, Jesse Franklin, Albert Gallatin, James Gillespie, Christopher Greenup, Andrew Gregg, Wade Hampton, George Hancock, John Hathorn, Daniel Heister, Thomas Henderson, James Holland, George Jackson, Aaron Kitchell, Matthew Locke, Samuel Maclay, Nathaniel Macon, Andrew Moore, Anthony New, John Nicholas, John Richards, Israel Smith, Absalom Tatom, and George Thatcher.

GRANTS FOR MILITARY SERVICES.

The House then took up the consideration of the bill regulating the grants of land appropriated for military services, and for the Society of United Brethren for propagating the Gospel among the heathen; when, after a few amendments, the principal of which were, that the tracts should be divided into townships of five, instead of six miles square; that such officers and soldiers of the late army as had located their warrants within the seven ranges, and had made improvement thereon before a certain time, should be suffered to remain undisturbed thereon; and a clause reserving the free navigation of all the rivers, the bill was ordered for a third reading to-morrow.

ACCOUNTANT WAR DEPARTMENT.

The House resolved itself into a Committee of the Whole on the bill for augmenting the salary of the Accountant General of the War Department, when, having agreed to fill up the blank containing the amount of the salary, in the Committee, after some debate, the sense of the Committee was taken upon \$2,000, \$1,700, and \$1,600. The first sum was negatived without a division; \$1,700 was negatived, 35 to 31: and the last sum (which was an increase of \$400 on the old salary) was carried, 36 to 32.

Mr. TRACY proposed an amendment which

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should allow the Accountant an additional sum for the present year, on account of the dearness of living, (agreeably to the advancement of other officers.) This occasioned some debate. It was proposed to fill up this blank with \$500 and \$400; but at length the sense of the Committee was taken upon the amendment itself, without any sum being named; which was negatived, 40 to 24.

The Committee then rose, and the House took up the business, when Mr. N. SMITH proposed to do away with the permanent salary altogether, and allow the Accountant \$500 for the present year only, on account of the dearness of living. The amendment did not obtain, and the bill was ordered for a third reading to-morrow.

BRITISH SPOILIATIONS.

Mr. W. SMITH moved that the House should resolve itself into a Committee of the Whole on the state of the Union on the memorial of sundry merchants of Charleston, praying for a loan or other aid from Congress on account of British spoiliations.

This was objected to by MESSRS. SWANWICK, VENABLE, and others. They did not see with what propriety gentlemen who had so warmly advocated the British Treaty, and said it would furnish ample compensation for all such spoiliations, could come forward and ask Congress to afford relief in such cases. It was said to be unnecessary to take up the time of the House on such business; and the Committee of the Whole was discharged from the consideration of it, and the petition ordered to lie on the table.

On motion of Mr. WILLIAMS, the House resolved itself into a Committee of the Whole on the bill for regulating Post Offices and Post Roads, which having gone through and amended, the Committee rose and the House adjourned.

TUESDAY, May 17.

The bill regulating grants of land for military services, &c., was read a third time and passed. The blank mentioning the time of registering warrants was filled up with nine months; that containing the time after which no locations will be allowed, was filled up with January, 1800; and that for containing the time at which persons shall have resided on lands already located by military warrants, to entitle them to remain thereon, was filled with April 18, 1794, (the day on which the act bore date, allowing Captain Kemberley to locate certain lands on the same principle.)

The bill altering the compensation of the Accountant of the War Department was read a third time and passed.

A bill from the Senate was read providing passports for ships and vessels of the United States.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act making provision for the payment of certain debts of the United States," with several amendments, to which they desire the concurrence of the House.

Mr. TRACY, from the Committee of Claims, made a report on the bill from the Senate, providing recompense for clerks, &c., who resided in Philadelphia during the yellow fever, to which they proposed to add several names.

They also reported on the petition of Alexander Fowler, praying to locate certain warrants on unoccupied lands in the Northwestern Territory. This report was against the petitioner. Both the reports were twice read, and referred to a Committee of the Whole to-morrow.

Mr. BOURNE reported a bill supplementary to an act laying duties on snuff.

Mr. W. SMITH also reported a bill empowering the Secretary of the Treasury to lease the salt springs of the United States Northwest of the river Ohio. Both the above bills were twice read, and ordered to be referred to Committees of the Whole to-morrow.

POST OFFICES AND POST ROADS.

The House took up the amendments yesterday made in Committee of the Whole in the bill regulating Post Offices and Post Roads, and having gone through the same and a few other alterations in the bill, it was ordered to be engrossed for a third reading. Some debate took place on a motion made by Mr. NICHOLSON to strike out a clause which obliges printers to dry all their newspapers which go by post, and to put them up in strong covers. It was said by Messrs. NICHOLSON and SWANWICK that this provision would put it in the power of post offices to stop the circulation of newspapers altogether, by refusing to accept them, on the ground of their not being sufficiently dry, or in covers sufficiently strong; but, on the other hand, it was argued by Messrs. THATCHER and HARPER that the former part of the measure was at least desirable, and that it could not be supposed that the Postmaster General would unnecessarily obstruct the circulation of newspapers, and that, if he did, he would be liable to punishment.

The amendment was negatived; when

Mr. THATCHER moved to strike out the words directing papers to be enclosed in strong covers, and to add a clause, directing that all newspapers, for any particular post office, should be enclosed in a mail by themselves, and directed to said office, and should not be opened until they arrive at their place of destination. This amendment was agreed to, and the bill was ordered for a third reading.

DAY OF ADJOURNMENT.

Mr. GILES thought it was time to fix upon some early period of adjournment. Most gentlemen, he believed, felt anxious to be away. He therefore proposed a resolution to the following effect, which was ordered to lie on the table:

"Resolved, That the President of the Senate and the Speaker of the House of Representatives be authorized to close the present session, by adjournment of both Houses, on Saturday, the 21st instant."

IMPRISONMENT FOR DEBT.

The House went into a Committee of the Whole on the report of a committee to whom was

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referred the bill from the Senate for the relief of persons imprisoned for debt. The committee recommend the second section of the bill to be struck out, and a clause to be added to this bill, which should conform the laws of the United States, with respect to persons imprisoned for debt, to those of the several States in which action should be brought.

Mr. NICHOLAS, Chairman of the Committee, said it was desirable, in his opinion, that the section which they had reported should be agreed to, because, when the punishment in the State, where an action might be determined, was heavier or lighter than that of the United States, it occasioned unpleasant comparisons. He thought it was of importance that they should not make the laws of the General Government, in this case, more severe than those of the States. In the State from which he came, a man was liberated by the State laws, upon giving up his property; but it was not the case with respect to the laws of the United States relating to debtors. He wished all possible humanity to be shown to unfortunate debtors, and it was desirable that an uniformity of practice should be established throughout the United States; but, as there was not now time for going fully into the subject, he believed the plan proposed would be the best they could at present adopt. At this time, he said, an arbitrary foreign creditor might confine a citizen of the United States as long as he pleased; he wished this unreasonable power to be done away.

Mr. COIT objected to this new section. There would be some difficulty in learning what the insolvent laws were in the different States. In the State from which he came, he said, they had no insolvent law. A man imprisoned in that State would, therefore, have no remedy. The measure struck him as objectionable on this ground.

Mr. N. SMITH said, he was upon the committee to whom this bill had been referred. The difficulty mentioned by his colleague [Mr. COIT] had occurred to him. It struck him their laws were insolvent laws. He must own he was not so favorably impressed with the plan proposed as some other gentlemen were, though there were many considerations which would induce him to wish for some regulations of this kind. The Committee had agreed that this report should be laid before the House, where it was expected it would meet with discussion, and be adopted, or not, as should appear best. He had his doubts on the subject; to introduce the laws of the different states into this law, without knowing what their laws were, did not strike him very agreeably. He wished gentlemen from the different States would state what their laws were. If his ideas of the laws of Connecticut were incorrect, he wished them to be set right. The Committee had not much time to consider the subject; but something being necessary to be done, they had agreed to make the report they had made.

Mr. W. LYMAN said, the bill was not particular enough with respect to the amount; it should specify some express sum. By the bill, as it came from the Senate, a creditor was permitted to keep

a man in prison, though he had no property at all, as long as his enmity towards him would permit him. This was a principle by no means justifiable. Prosecutors in the Federal Courts were mostly foreigners, who had the power of imprisoning our citizens for life, for the *crime*, perhaps, of being *unfortunate*. In the State of Massachusetts, he said, they had formerly a law upon a similar principle, but it had been abolished, and a new law had been enacted upon more lenient principles, which had been found very acceptable. He should vote for the report of the committee.

Mr. MURRAY wished to know how far the provision would go. In the State of Maryland, the property of persons who took advantage of the law, was not afterwards liable. He did not much like the connexion made betwixt the laws of the several States and the United States. He thought a uniform system for the whole Union would be far preferable.

Mr. HAVENS said that, in the State of New York, they had various laws in force for the relief of debtors, founded on different principles; by one of them, the debtor was discharged from his debts after giving up his property for the payment of his creditors, provided that such a number of them as held three fourths of his debts would consent to his discharge in that way. By another law, the debtor was to be liberated from imprisonment on giving up his property, but was not discharged from his debts, and would be liable to execution for the payment of them to be levied on any property that he might afterwards acquire; they had also adopted a third principle, which was, that a person having a family, and not being a freeholder, should not be imprisoned for a debt less than ten pounds in that currency. He doubted how the proposed clause would operate in all these different cases.

Mr. NICHOLAS observed, that, with respect to New York, it would apply to the two last instances. It was not meant to extend to bankrupts; it was meant to substitute a man's property for his body—not where a man was discharged by two-thirds of his creditors, but where he was to give up his body. The gentleman from Connecticut [Mr. N. SMITH] had stated the business very fairly; but he did not think it was taking the State laws in the dark, as there were gentlemen present from every part of the Union, who might reasonably be supposed to be acquainted with their laws on this subject.

Mr. BRADBURY had no objection to amending the bill from the Senate; but, he said the law ought to be uniform to all the debtors of the United States. Some of the States differed considerably in their regulations on this subject, and therefore he did not think it right to conform the laws of the United States to all their different practices.

Mr. N. SMITH and Mr. BRADBURY—each of them proposed an amendment, which were agreed to.

Mr. DAYTON (the Speaker) approved the object of the bill, which was to render the situation and confinement of debtors less rigorous and oppressive, but he wished a uniform plan to be adopted, which should operate equally throughout all the

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States. As the relief proposed for debtors has immediate reference to the State laws, the treatment of the same description of debtors held under processes from the Courts of the United States, would be very different in different States. In New Jersey, for instance, they had no existing insolvent law, and, therefore, if the amendments reported by the select committee to the bill from the Senate were adopted, a debtor confined in that State would be left without any, the most distant, hope of relief, and must perish in jail, if he could not pay the debt. He owned that it would meliorate the condition of this unfortunate class of beings, where the State laws were then in force, to which the regulations could attach and apply, but where that was not the case, as in New Jersey, and in two or three other States, their prospects would be more hopeless; for no subsequent act of the State could bring them within the benefits of the law of the United States.

Mr. D. said, it appeared as if gentlemen were inclining to adopt the Committee's amendments, not because they altogether liked them, but merely because they thought them preferable to the Senate's bill; he, however, thought it more practicable, by means of amendments, to conform the latter than the former to the opinion of a majority.

Mr. GILES would not object to the provision, because it did not apply to New Jersey; because he believed it was the best plan which could be adopted at present. In the State which he represented, there were cases of persons having been for a long time imprisoned by foreign creditors. This provision proposed to give such debtors the same privileges which they would be entitled to, if they had been prosecuted under the State laws. He had now letters which informed him of persons being imprisoned for debt, for whom no relief could be afforded. A man put into prison by a British creditor, (betwixt him and whom there might be supposed to be some degree of animosity,) might, by the bill, as sent from the Senate, be kept in close confinement without relief; whilst the citizens of the same State would not have the same power over any of their debtors. This provision went to put both upon the same footing. He hoped it would be agreed to, because, if disagreed to, no other law could be got through this session.

Mr. NICHOLAS would submit it to the gentleman from New Jersey, [Mr. DAYTON,] and others, whether the situation of the States would be altered by this law? They certainly would not. It went to conform the law of the United States to those of the States, and not those of the States to that of the United States. He would ask, if it was not most important that there should be uniformity in the pains, in like cases, in the States and United States? Or was it right that foreigners should have greater power over our citizens than they have over one another? He believed the only way of reconciling the State and General Governments was the one proposed.

Mr. JEREMIAH SMITH said, it had been stated as an objection to the amendment that it was

taking the State laws in the dark—taking a variety of laws which they did not understand. He confessed he was unacquainted with the insolvent laws of any of the States, except Massachusetts and New Hampshire. There were several States whose laws he knew little or nothing of. Perhaps, some of them might favor the debtor to the injury of the creditor. Until he knew what they were, he felt a difficulty to assent to them. He had another objection to the amendment—he supposed it would not only be adopting the laws at present in existence in the States, but also such as should hereafter be made on the subject of insolvency.

With respect to the observations of the gentleman from Virginia, [Mr. NICHOLAS,] on the subject of debtors and creditors under the laws of the United States and individual States, he allowed they had some weight; but, notwithstanding, he declared himself unwilling to trust the States to make insolvent laws for the United States. In Vermont, he knew they made insolvent laws for every particular case, and, consequently, if this amendment passed, the United States must be ruled by their irregular proceedings. He did not wish to subject foreigners to the decision of such uncertain laws.

Mr. VENABLE did not know what was the practice of other States, but, in the State from which he came, it would put foreigners only upon the same footing with others. He had not understood that the amendment would apply to laws to be hereafter made; if it had that meaning at present, he should wish it to undergo an alteration, otherwise the States might make laws injurious to the interests of the United States. Gentlemen present, he said, were acquainted with all the State laws. If there was any case in which it would be wrong to adopt any State law in existence, it ought to be expressed by those who were acquainted with the circumstance. They ought, he said, either to make a general bankrupt law, or adopt some temporary measure. He thought the amendment should be adopted.

Mr. R. SPRUCE, Jr., spoke in favor of the amendment. He thought it the best provision that could be made at this late period of the session.

Mr. CORR said, it was extraordinary to him that when a law was proposed to continue in force an old law, that so very material an alteration should be proposed to be made in it. He believed inconvenience had been experienced under the old law, and this was nearly a copy of it.

He was somewhat backward, he said, in stating his ideas on the subject, because their law ideas were in some degree trammelled by the practice they had been accustomed to. The old law was agreeable to the practice which he had been accustomed to; it had been complained of as bearing too hard upon the debtors. Much was said about the hardship of imprisoning debtors. There was certainly no propriety in imprisoning a debtor, except for fraud; no one would be of a contrary opinion. If a man owed a debt, his person could be identified, but his property could not. Any duress you can perform, but attempt to lay

your hands upon property, and everything is uncertain. Were it, therefore, only a guard against fraud, it was a desirable thing that a man's person should be laid hold of. A debtor can be imprisoned at the expense of the creditor. This power, he owned, might be abused, from the violent or base disposition of a creditor, but such instances would rarely occur. He scarcely ever knew an instance of the kind. If, when a creditor threw his debtor into prison, he was extremely enraged and revengeful, after he had paid the expenses of his debtor some time in prison, he soon cooled. From this circumstance alone, there was little chance of a creditor keeping in prison a debtor for a very long time. As this law had been practised upon for three years, without much inconvenience, he was of opinion they had better continue it.

The question on the amendment was put, and carried—42 to 26.

Mr. NICHOLAS moved an amendment, which was agreed to, to allow all prisoners for debt the free use of their prison yards.

The Committee rose, and the House took up the consideration of the amendments, which were agreed to, and some additional ones made in the House. The bill afterwards passed, but the Senate returned it with a disagreement to the amendment, and, on a conference being held, the House of Representatives gave up their amendment on account of the admission of an ameliorating provision.

WEDNESDAY, May 18.

The bill providing passports for ships and vessels of the United States was read a second time, and ordered to be read a third time to-morrow.

The amendments of the Senate to the bill entitled an act for making provision for the payment of certain debts of the United States, were read, and ordered to be committed to a Committee of the Whole to-morrow.

Mr. GILES hoped the House would consent to take up the resolution, which he yesterday laid upon the table, relative to a close of the present session. He had conferred with some gentlemen of the Senate upon the subject, and it was their opinion, if Wednesday, the 25th instant, was inserted, instead of Saturday, the 21st, all the business of importance might be got through. He proposed, therefore, to make that alteration. The resolution was agreed to.

POST OFFICES AND POST ROADS.

As the bill in addition to an act to establish Post Offices and Post Roads in the United States, was about to be read a third time, Mr. MURRAY proposed to recommit the bill, in order to strike out a clause which would considerably affect the morning papers of this city, as it required that they should be dried before they were sent by post, which (as it would be next to impossible to do it before seven o'clock in the morning, the time at which the papers were to be put into the post office) would have the effect of keeping

those papers from their readers a day longer, and by this means give an advantage to the evening papers, which might copy whatever was valuable from a morning paper, and stand upon the same ground with it, when they get to the places to which they were destined. This motion occasioned some debate. It was supported by Messrs. MURRAY, GILES, and MACON, and opposed by Messrs. HARPER, THATCHER, WILLIAMS, KITTERA, and JACKSON, partly on account of the expediency of the clause for the purpose of preserving the papers, and partly that no time might be lost, and by that means endanger the passage of the bill (which contains regulations for many new post roads) this session.

The motion was at length negatived, 40 to 34, and the bill was read a third time and passed. It was afterwards sent to the Senate, and, in the course of the sitting, returned from thence, with information that they had postponed the consideration of it till next session of Congress.

MILITARY APPROPRIATIONS.

Mr. W. SMITH, from the Committee of Ways and Means, made a report on a resolution to the following effect:

Resolved, That there be appropriated, for the year 1796, for the Military Establishment, including the sum already appropriated, ——— dollars; for the Naval Department, ——— dollars; and for military pensions ——— dollars, pursuant to the estimate herewith reported."

The estimate alluded to was made by the Secretary of War, as a substitute for one made last December; the sum necessary for the Military Department, was estimated at 1,441,209 dollars; for military pensions, 111,259, and for the Naval Department, 113,025; making, in the whole, 1,665,193 dollars.

The report, with the papers accompanying it, was ordered to be referred to a Committee of the Whole on Friday.

WEIGHTS AND MEASURES.

On motion of Mr. HARRISON, the House went into a Committee of the Whole on the bill regulating Weights and Measures, when Mr. COIT moved to strike out the first section, and spoke against the proposed plan altogether. Mr. HAVENS and Mr. SWANWICK defended it. The motion for striking out was negatived, and the bill agreed to without amendment. It was ordered to be engrossed for a third reading to-morrow.

EXPENSES OF FOREIGN INTERCOURSE.

The House resolved itself into a Committee of the Whole on the bill making provision for paying the expenses attending intercourse with foreign nations, and for continuing in force an act providing means of intercourse between the United States and foreign nations, for a limited time.

Mr. GALLATIN said he did not know with what sum the blank should be filled. There was a variety of expenses of which they had no estimate.

Mr. W. SMITH observed that it was very uncertain what would be wanted under this head.

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There was the agency of Mr. Bayard, who was now in London on public business, and much would depend upon his expenditures. There were at present 40 or 50,000 dollars unexpended of sums appropriated for foreign intercourse; but it was contemplated by this bill to appropriate that sum a different way. He would therefore move to fill the blank with a sum equal to that, viz: 40,000 dollars.

Mr. GALLATIN did not see any reason for so high a sum. The general foreign expenditure had been 40,000 dollars; but the sum with which this blank was to be filled was merely for extraordinary or contingent expenses, which could not be equal to the whole amount of ordinary foreign expenditure. Under the head of the general foreign intercourse, were included all the foreign ministers. The sum now to be added related to their particular situation. The mission of Mr. Bayard, he believed, was the principal; at least he did not know of any other. He moved to fill the blank with 10,000.

Mr. GILES wished the gentleman who moved to fill the blank with 40,000 dollars, would give the Committee some idea how that sum would be likely to be expended. If it was only wanted on account of the mission of Mr. Bayard, he hoped 10,000 would be enough.

Mr. SWANWICK thought it might be easily conceived how 40,000 dollars would be expended. Mr. Bayard was employed to prosecute the claims of the merchants of this country who had suffered by British spoliations; and every one who had the least idea of the expensiveness of English law courts and lawyers, would readily conceive that 40,000 dollars would soon be expended in that way. This was another consequence of British spoliations.

The question on forty thousand being lost—

Mr. W. SMITH moved to fill the blank with 30,000. He said it was impossible to ascertain with precision what sum would be wanted. The gentleman from Pennsylvania [Mr. SWANWICK] had stated that the expenses attending the recovery of the amount of spoliations would be very considerable. He did not think it was right to embarrass the Executive by voting too small a sum; there might be an inconvenience in this, there would be none in voting a larger sum; because, if it was not wanted, they were certain the PRESIDENT would not expend it.

Mr. VENABLE did not know upon what principle this money was asked for the payment of lawsuits which might attend the recovery of the amount of spoliations committed by the British upon the property of our merchants. He did not know whether it would be proper to pay the expense of any such suits; of those which were brought on indefensible ground, it certainly was not. If there was any law to direct them on this occasion, he should be glad to know it.

Mr. S. SMITH said, there was another expense which had not been mentioned. An agent had been sent to the West Indies to obtain evidence so as to enable Mr. Bayard to appear in the British courts with proper documents. When the

subject was first proposed, he did not understand it; but he believed it was the intention of Government to pay the expenses of the law-suits for recovering the amount of the spoliations committed upon the property of American merchants. And this, he said, was no more than just; for, if every merchant was under the necessity of prosecuting his own suit, the expense would be enormous; but having an agent on the spot who would attend to the whole, the expense would be greatly lessened. Besides, as their property had been illegally taken from them, it was the duty of Government to see them redressed. It was with this view, he believed, that an agent had been sent to London, and if, said he, we cripple him by granting too little money to defray his necessary expenses, he might as well have been kept at home. He should be in favor of \$30,000.

Mr. WILLIAMS said, they were treading on nice ground. Whilst he would have justice done to our merchants, by having a sufficient sum appropriated, he would not have too great a sum provided, which might be paid for asserting claims for which there was no ground. If, for instance, he said, a vessel were fitted out with contraband goods, and was taken by the British, if the owner of that vessel were to commence a suit, which he could not support, to recover his property, would it be right that the expense of such a trial should be paid out of the Treasury of the United States? Certainly not. And if they were to pay the expense of all suits, all who had the least chance of substantiating their claim, would be forward in bringing their suits; and, if the lawyers learnt a very large sum was appropriated for the purpose of paying them, he believed, however large they were to make it, it would all be swallowed up. He thought \$20,000 too much, but he would agree to that sum.

Mr. SWANWICK thought the gentleman from New York [Mr. WILLIAMS] need not be under any apprehension that the United States would pay the expense of any illegal claims. The Governmental agent would doubtless refuse to prosecute any claim that was dubious. It could not be suspected that money would be expended for such a purpose; but a considerable number of vessels had undergone a kind of mock trial in Bermuda, and were condemned, for which it was necessary to seek restitution, as well as for those carried into Great Britain or elsewhere; but if citizens were obliged to prosecute their own claims at their own expense, the expense would, in some cases, come to more than the property itself. And why should Government do this, it may be asked? It was, said Mr. S., because the merchants had a claim on the protection of the United States. They had been exposed to great losses which they had sat quietly under, reposing upon Government to obtain their redress; and, from the knowledge he had of the expense of law in England, he did not think that \$30,000 would be sufficient to defray the expense to be incurred; and if they should not appropriate a sufficient sum for the purpose, the merchants would not get sa-

tisfaction, but would, perhaps, hereafter call upon that House for reimbursement.

Mr. NICHOLAS wished to use caution on this subject. If gentlemen would say how much was wanted, and for what, he could judge of the propriety of the expense; but, without some estimate, he could not say that \$10,000 or any other sum was sufficient. He believed it was not the proper time to consider whether the object was a proper one, when they were about to fill up the blank. There might be some objections to the manner of expending this money, but he was not prepared to make them. He believed it was incidental to the Executive business. The subject was uncertain; but, as, he wished for an agreement, he proposed to fill up the blank with \$20,000.

Mr. KITTERA was in favor of filling the blank with \$30,000; not that he thought the United States was bound to make good the losses of our merchants. He believed that gentlemen need not be alarmed about voting too much money on this occasion, as he did not think another Envoy Extraordinary would be sent to Great Britain, and if it was not wanted it would not be expended.

Mr. GILES said, it was the worst reason that could be given for voting a large sum of money, to say, if it was not wanted, it would not be expended. If this argument were to have any weight, it would go to give the Executive unlimited power over the Treasury. If it could not be said what the exact amount of the sum now asked for was necessary, he supposed some estimate might be made, so that they should not be under the necessity of giving a vote *ad libitum*. It appeared to him that the proper Legislative discretion was to come as near as possible to what was necessary. With respect to the reimbursement of the losses of our merchants, that was not the question before them. They had made an election, they had chosen to rely upon Great Britain for redress. He did not believe they would get all they expected, but he wished the experiment to be fairly tried. He did not know that the United States ought to defray the expenses of trials in legal as well as illegal condemnations. It appeared singular that the United States should be called upon to pay the expense of either. If the Treaty meant anything, it meant to make complete recompense, and, therefore, a large sum could not be necessary. He was willing to vote for a proper sum, but he would never agree to allow the Executive uncontrolled power over the Treasury. He was one who was not acquainted with the object of the mission of Mr. Bayard, and, therefore, could not say what sum was proper to be appropriated on this occasion.

Mr. W. LYMAN did not understand what were the duties of Mr. Bayard in London. He did not think the United States ought to pay the expenses attending the law suits instituted to recover the property of our merchants. He conceived that our merchants would first apply to the British Courts of Admiralty for redress, and that if they failed there, they would make application to the

Commissioners. If they failed in obtaining redress, it was said they would ultimately come upon the United States. This was not the time, he said, to determine that question. He could not discover the use of this agent. Individuals who had lost their property, might employ whom they pleased to recover it; but were the United States to pay the expense? He thought not. It appeared to him that the agency of this person was no longer necessary. However, if there could be any information given to show the necessity, and what expense was necessary to be incurred, he could determine; but, at present, he could not.

Mr. VENABLE said, that his objections to the bill did not arise from the amount of money, but because there was no provision made by law which directed such expenses to be borne by Government as are now contemplated. It was a new subject, which must be determined upon by Congress; for it would not come in under the head of foreign intercourse. Had it been determined, he asked, by the Legislature that the proposed expense of prosecutions should be paid by Government? It had not. If an individual had his vessel and cargo unjustly taken by the British, he would recover, as he supposed, both the amount of his goods and cost of prosecuting his claim. This had always been the case; but if the United States were to pay the expenses of these law-suits, it ought to be provided for by law. If the expense of the agency alone could be brought forward, he would vote for it, but he could not consent to vote for money, the expenditure of which was not authorized by an act of the Legislature.

Mr. S. SMITH believed gentlemen had forgotten the situation of the United States three years ago. The British Court had issued an order directing the property of neutral Powers to be carried into their ports. In consequence of which order a great number of our vessels were carried into their ports; the masters of which returned home without making any appeal. For each of the owners to prosecute his own appeal, would be an expense equal, perhaps, to his whole loss, as he had known a single law-suit in London cost 1,200 guineas; besides, it was a national question, and Government had properly interfered to relieve our citizens from loss. An agent had been sent to London for the purpose. He would do the business at comparatively a small expense. The United States, he said, owed their citizens protection; and if they did not grant it to them, those who suffered losses should be allowed to make reprisals. When they voted to fill the blank before them with \$30,000, they did not say it was to be expended. The Executive would certainly not spend more than necessity required. He hoped, therefore, that the blank would be filled with that sum.

Mr. GILES said, he never was called upon to decide on any question where he had so little information as in the present case. They were without law, and without estimate from the proper department. Gentlemen could not say those

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who were unwilling to vote for \$30,000 in the dark, were opposed to the measure; but they would not give \$30,000, because they could not see a necessity for more than \$10,000. He was of opinion the latter sum would be sufficient, as it was probable the expense of the agent, as far as it was gone, was paid. They had no account of the expenditure of \$200,000 taken from the million appropriated for purchasing a peace with Algiers; and he could not conceive that more than \$10,000 would be really wanted, if, as he supposed, the expenses already incurred by Mr. Bayard were paid. If the Executive should say more was wanting, he would have no objection to vote for it; but until they had documents on which to form some judgment of what was wanted, he was not willing to vote for the sum proposed. In most other cases, when agents were employed, they had some idea of the duties of his office, but in this case he was an utter stranger to them.

Mr. SWANWICK wished he could join gentlemen in thinking that there was no occasion for their agent in London. They need only take up any of our morning papers, and they will see the practice of taking our ships and men is still continued. With respect to the expense which may attend this agency, the gentleman from Virginia [Mr. GILES] must know that even in this country law is expensive, but much more so in Great Britain. It is, said he, a part of their revenue, the sums raised by means of stamps being immense. \$10,000, which had been mentioned, he was confident, would by no means be adequate. He was afraid \$30,000 would fall short. He was afraid it would require two or three times that sum before the business was completed.

Mr. W. SMITH said, gentlemen had expressed a surprise that no estimate had been received from the Executive. There was nothing surprising in it. There were, he said, \$45,000 in the Treasury, which were reserved by the Executive for these extraordinary expenses; but this bill contemplated the taking of that sum away and applying it to other purposes; the House must, therefore, replace that sum with some other resources. Gentlemen knew that there would be the expense attending Mr. Bayard's agency in London, and that of an agent to the West Indies, which must be considerable; they must also know that, in time of war, neutral nations must be put to extra expenses in their foreign intercourse, which were not incurred in time of peace. Was it right to refuse the Executive \$20,000 or \$30,000 for this purpose? He did not think the PRESIDENT had done anything to warrant this unreasonable distrust.

Mr. WILLIAMS said, he was at a loss what to vote for. The gentleman from Maryland [Mr. S. SMITH] had said they had commenced the business, and were bound to continue it. He thought if they had begun to do an improper thing, the sooner they got quit of it the better. He wished the expenses which were to be borne to be designated. The sum proposed might not be enough, or it might be three times too much. Whenever appropriations were made, it was always expect-

ed that the House should have some sort of estimate upon which to act. He thought the gentleman from Virginia [Mr. GILES] said rightly, when he observed no one knew in what this money was to be expended. If, said Mr. W., it is to go for law-suits, it ought to be so designated.

Mr. GILES could not help remarking upon what had fallen from the gentleman from South Carolina, [Mr. W. SMITH.] His information had satisfied him that the expenses of Mr. Bayard were paid hitherto. That gentleman had said that \$45,000 remained of a former appropriation, but had been taken away. It would be noticed that the sum now appropriated was not the whole sum allotted for foreign correspondence, but an additional sum. They had already appropriated \$40,000 and if they now appropriated \$30,000 more, it would make \$70,000. He supposed, at the time the \$40,000 were appropriated, that sum was to cover the whole of the foreign expenditure. But now they were called upon for \$30,000 more to defray the expenses of an agency to London. He could not think one-third of the money would be wanted for this purpose, and, therefore, would confine his vote to that sum.

Mr. S. SMITH was not at all surprised that gentlemen who were so much averse to the Treaty, should wish the blank to be filled with \$10,000 only, because this would destroy the means of obtaining the proposed redress. It would destroy the Treaty; but, that the gentleman from New York, [Mr. WILLIAMS,] who made a speech of two hours long in favor of the Treaty, should lean to such an opinion, he was astonished. Suits, he said, must first be instituted in the British Courts, which, if they did not appropriate money to pay for, could not be carried on, and the redress proposed by the Treaty to the merchants of the United States would be defeated. If the gentleman from New York, therefore, wished to defeat the intention of the Treaty, he would vote against the sum proposed; if not, he would vote for it.

Mr. WILLIAMS trusted that every man who voted for carrying the British Treaty into effect, did so because he thought it for the interest of the United States. It did not appear to him that the present question had anything to do with the Treaty. Since the Treaty was adopted, he did not wish to hear anything more about it. He trusted he should be found a good citizen, and do all in his power to carry it into effect.

Mr. GALLATIN said, the present was by no means a Treaty question. There was no connexion between Mr. Bayard's mission and the Treaty—he was appointed before the Treaty was ratified. The gentleman from Maryland [Mr. S. SMITH,] did not attend to the arguments of the gentleman from Virginia, [Mr. GILES.] He did not object to Mr. Bayard's mission. He wished only to have some specification for which \$30,000 were wanted. If the object of the mission was known, and some estimate was before them, they should be willing to appropriate whatever appeared to be necessary. If they appropriated so large a sum as that proposed, it might be applied to ob-

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jects justifiable by, and within the general expression of, the law, and yet different from these intended by the Legislature, viz: of defraying the expense of law-suits. They had formerly, he said, appropriated a million of dollars for foreign intercourse, which had been expended according to law, but the whole of which was not spent according to the intention of those who voted for it. So it might be in this case; and, though the PRESIDENT was justified to apply the money in any manner which appeared to him to be for the interest of the United States, provided it was for the general purpose of foreign intercourse; yet, as they were called upon to make a grant of public money, it was necessary to have some estimate by which to regulate the amount; but having no such estimate, no demand for money, it was perfectly right to fill the blank with the smaller sum proposed; if more be wanted, it will of course be asked. And here he would observe, upon what had fallen from the gentleman from South Carolina, [Mr. W. SMITH.] He said that there remained a balance of \$45,000 of a former appropriation, which they proposed to transfer to another object. This sum, he said, was the balance remaining from the appropriations made two years ago. The effect of the law carried this sum to another fund: it went to the surplus fund, and, therefore, could not have been appropriated to the object now under consideration.

Mr. NICHOLAS believed nobody would be influenced to vote against the blank being filled with \$30,000, because he voted against the Treaty; he should vote for it on that ground. He did not wish to take any of the faults or failures of the Treaty upon himself, and, therefore, he would appropriate whatever was asked for as necessary to enable gentlemen to make the best of it. He believed if they did not now appropriate the sum required, they could not hinder the PRESIDENT from getting it, as they had already appropriated \$40,000 for foreign correspondence. He should give his vote, therefore, for the largest sum mentioned.

Mr. TRACY would ask the gentleman from Pennsylvania [Mr. GALLATIN] why he would vote for 10,000 dollars? He did not know that it would be wanted. They had not any statement, nor could they have any of the money which would be necessary. What, said he, is our external situation? and what will it be whilst the war in Europe continues? He wished to know where the money was to be found necessary to pay all the expenses which would necessarily be incurred in keeping up their foreign relations? Gentlemen were willing that the Executive should take a great deal upon himself, have a great deal of responsibility, and they were very ready to find fault when every thing was not done to their wishes, but when called upon for the money necessary for the occasion, it was refused because no estimate was made; because the expenses were contingent, and could not be calculated. \$30,000 might be enough, or it might not. He desired gentlemen to look on the affairs of Europe; until the war there should cease, he

said, the expenses of our foreign correspondence would necessarily be large. To give the PRESIDENT ample means was the best way of preventing the impressment of our seamen, and the injuries committed upon our commerce; but, if the necessary means were withheld, all the authorities would be crippled, and we should abroad be laughed at.

Mr. LIVINGSTON said, meaning, as he did, to vote against filling up the blank with \$30,000, he would give the reasons which influenced his vote. If this appropriation had been asked for to pay the expense of new foreign agents, he would have given it his support; but he could not agree to give money for the purpose assigned; for, if the PRESIDENT were to pay the expenses of the suits which were to be instituted for obtaining redress for prizes illegally taken from our citizens, he should be authorized to do so by law. And if they agreed to appropriate the sum required for foreign intercourse, the PRESIDENT could not expend the money in the way mentioned; for what connexion, said he, had the expense of such law-suits with foreign intercourse? It was said the United States were to indemnify our merchants from loss: but this could not be done by a general appropriation for the expenses of foreign intercourse; it must be done, he said, by a special appropriation for the purpose; yet this might as well be done under this appropriation as to pay the law-suits under it. He should, therefore, vote against this additional appropriation, except it could be shown to be necessary for the additional salaries of agents. He was not certain that these considerations would have weight with others, but they had weight upon his mind, and, unless more information was given upon the subject, he should vote against the sum proposed.

Mr. SWANWICK was of opinion that the prosecuting of the appeals of our merchants to recover their property illegally taken from them, might very properly be paid out of the sums appropriated for foreign expenditure. His friend from New York [Mr. LIVINGSTON] had said, that if the PRESIDENT undertook to pay the expense of these law-suits, without any direct authority, he might also go on to indemnify our merchants for their losses altogether; but that gentleman must allow that this could not be done, unless a sum sufficiently large was appropriated for the purpose. Undoubtedly, if a sum large enough was granted, he might apply it for that purpose, because it would be known, at the time it was granted, that it must be appropriated to something of the kind. How was this relevant to the present case? Can the PRESIDENT satisfy the losses of our merchants out of thirty thousand dollars? Certainly not; and he thought it only reasonable that the expense of the suits instituted to recover the losses of our merchants should be paid by Government, otherwise the recovery would in many cases be too heavy for an individual to bear. And if they were to appropriate to small a sum for this purpose, would not the merchants come to that House and say, "because you did not allow sufficient

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money to prosecute our claims, we now call upon you for restitution?" He hoped no one would be influenced in his vote on this occasion by his dislike to the Treaty; that question had nothing to do with the present. Mr. S. concluded with observing, that he had no calculations on the subject; but, as he had before said, he knew the expensiveness of British courts of law, and he wondered that the law gentlemen in that House who knew very well the price of law, should think the sum too large.

Mr. HAVENS said, that it appeared to him a very improper way of doing business, to include, under the general expression of "foreign intercourse," as it was expressed in the bill, such a great variety of subjects, very different in their nature, about which it might be supposed necessary to expend some portion of the public moneys. He thought that when the House was called upon to make appropriations of the public moneys, they ought at least to have before them such a specific detail of the several particulars about which it was supposed necessary that public money should be expended, as would enable them to judge of the necessity or propriety of making the expenditure. He wished to have the clause so amended as to enumerate the particular objects of expenditure which had been mentioned by those who advocated it as it then stood. He then moved that the clause should be so amended as to say, that the money should be appropriated for the purpose of defraying the expenses that would arise in prosecuting certain suits in the Courts of Great Britain, on account of the spoliation that had been committed on the American commerce, and for other contingent expenses, instead of saying generally for the purposes of "foreign intercourse."

Mr. NICHOLAS seconded the motion.

Mr. GILES hoped they should not agree to the amendment. It would support the idea that they were to make indemnification for all the spoliation which the British had committed upon the property of our merchants; a principle he should be very unwilling to sanction. He was of opinion that not one farthing of the money now appropriated would be expended in that way. The view he had of the business was, that the money was wanted to answer any contingency which might arise from the present state of Europe. He was for having the merchants go on in their own way, and to get all they could from the British. Considering the proposition as affording an additional sum for keeping up foreign intercourse, he would consent to fill up the blank with \$20,000, which would make the sum already granted \$60,000, but with no indirect view of interfering with the claims of our merchants.

Mr. DAYTON was decidedly against the amendment and preferred the bill, as it would read without it. The relief of American seamen was with him one of the objects as well as the affording of aid to the merchants, who were suffering, or might hereafter suffer from the depredations of English cruisers. To afford aid in prosecuting the appeals of the merchants, did not, he said, by any means sanction the principle that the United States were

bound and prepared to make good their losses, if they were not satisfied by the British. To that principle he should never agree.

Mr. LIVINGSTON explained.

Mr. VENABLE said, by the amendment proposed the thing was brought to issue. Gentlemen were agreed that this money was wanted for a certain purpose, but when that purpose was brought forward and inserted in the bill, they were opposed to the meeting of it. It was said, if they made provision for the payment of the expense of law-suits, they must also make provision for the payment of the spoliation themselves. But should it be said in that House that they would not pay the expense of these law-suits, and yet expect the PRESIDENT to do this? Could it be supposed that the PRESIDENT would do an act which the Legislature would not do? If 30,000 were wanted for the usual foreign expenditure, he would vote for it, but not for an object which the House seemed unwilling to sanction.

Mr. W. SMITH objected to the motion's being in order.

Mr. HAVENS said, that he had not proposed the amendment to the clause under consideration because that he approved of the principle of paying for the spoliation that had been committed on American commerce, under all existing circumstances, but merely that gentlemen might vote for the appropriations of the public money, on the ground or for the reasons which they themselves had assigned in favor of the clause when expressed in a more general way, under the idea of foreign intercourse; and he was surprised to find any gentleman opposed to an amendment which expressed the very reasons which he himself had urged in favor of the clause when expressed in a more general way. He did not think that they ought to avoid the making specific appropriations, under color of such general expressions; he was, besides this, of opinion that it would not be treating the PRESIDENT well to put him in such a situation as to make it necessary for him to designate all the particular objects of public expenditure when they were not detailed in the law itself. If gentlemen intended that the PRESIDENT should expend the money about the law-suits in question, they ought to say so in the law, and take the responsibility of the measure upon themselves. After the clause was amended in the way that he had proposed, they could then decide with more propriety on the clause itself.

Mr. WILLIAMS was opposed to the amendment because he did not wish to pay the expenses, at least, of all the law-suits in question. The gentleman from Maryland [Mr. S. SMITH] had mistaken him. He did not oppose the sum because he was unwilling to grant the necessary appropriations, but because the object to which the money was to be applied was not mentioned.

Mr. MACON moved to strike out the whole section. He thought they had nothing to do with the recovery of damages for the spoliation of the British, for which this money seemed to be wanted. He thought they were as much bound to pay the spoliation themselves as the law-suits; to do

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this would be making all persons, on land, a kind of underwriters for adventurers at sea.

Mr. GILBERT could not see any reason for objecting to fill the blank with thirty thousand dollars. If they were to continue there ever so long, they could not say for what this money was wanted. It must go for contingencies. He hoped the section would not be struck out. It was the business of the Executive to direct the expenditure of the money, and of that House to appropriate money to enable him to do it. The object of his colleague [Mr. HAVENS] was to specify the object to which the money should be applied; to direct the PRESIDENT how he should manage foreign intercourse. Where he found this doctrine, he could not say; the Constitution knew none such. He believed they should make the appropriation. He would not say it should be for this or that purpose, but leave it to the PRESIDENT to expend it in the way which appeared to him most proper.

Mr. DAYTON could not suffer the question to be taken before he said a few words in answer to the gentleman from North Carolina, who seemed to think that the money now to be appropriated was to be expended only in discharging the expenses of law-suits. The Executive, he said, had been subjected to indirect censure, because immediate relief had not been obtained for impressed American seamen, when the means of doing it were not afforded him by the Legislature. If agents should be appointed pursuant to the bill that had passed the House of Representatives, an appropriation would nevertheless be necessary, in order to enable and induce the Consuls to co operate with them in so humane and important a work. Every one must know that, during the present war, extraordinary expense must necessarily be incurred in the maintenance of tranquility and neutrality, and in the preservation of foreign intercourse and good understanding.

In cases of the seizure of the property of American citizens, contrary to the Law of Nations, where a representation or remonstrance must be made from this Government to that of the offending party, it would be necessary to send abroad in order to obtain extracts from Court records, or other proofs to establish the fact of a violation; yet this could not be done without expense, and was but one of the very many instances which might occur to require expenditures of money, and where the want of it would prove exceedingly detrimental to their general interests. If they should refuse to make the necessary appropriation they could not justly blame the Executive if the most effectual measures were not taken and persevered in, to promote the interests of this country as an independent nation.

Mr. MACON said they had passed a bill relative to seamen, which was now in the Senate. This money had nothing to do with that bill. The gentleman from New Jersey had told them of this expense before, but gentlemen in general expected the money was wanted to pay for the law-suits mentioned; and, said he, if we interfere in these suits, may not our citizens say, in any case which is unsuccessful, "if you had let us manage our own

suits, we could have recovered our losses?" Both the seamen and the treaty, said Mr. M., are provided for, and if money enough was not voted for those purposes, he would vote for more, and therefore saw no necessity for mentioning them there.

Mr. GILES said, he should not have risen again had it not been for what had fallen from the gentleman from New Jersey [Mr. DAYTON.] Whatever might be thought of the penury of that House, he thought they had voted very large sums for foreign intercourse. They had appropriated a million of dollars for purchasing a peace with Algiers; but two hundred thousand dollars of that sum had been taken for foreign intercourse, he believed, with great propriety. However, as they had appropriated so amply all that had been asked for, he thought there was no ground for charging them with not appropriating sufficiently. He should vote against striking out this clause; but, in doing this, he would not be understood to authorize the PRESIDENT to expend this money in law-suits. If he had done it at all, he hoped he had so done it as not to make the United States ultimately answerable for the losses of our merchants. He was willing to vote for twenty thousand dollars, which he thought enough; and as they had no information from the PRESIDENT on the subject of these law-suits, he hoped the money would not be expended upon them.

Mr. WILLIAMS said a few words against striking out the clause, and against appropriating the money for the payment of law-suits. He hoped it would not be so used.

The motion for striking out was put and negatived.

The question was about to be put for filling the blank with thirty thousand dollars; when

Mr. GALLATIN said, the gentleman from New Jersey had mentioned the expense of sending an agent to the West Indies. He found, by referring to the Secretary of the Treasury's accounts, that the expense of Mr. Higginson's agency had been charged to the contingent expenses of Government, and not to the head of foreign intercourse. He found that by far the greater proportion of the yearly appropriation of \$20,000, for contingent expenses of Government, had, in the year 1794, been expended for that object or for foreign intercourse; there being but a sum of one hundred and eighty dollars applied that year to contingent expenses of another nature. He read the statement of receipts and expenditures. Hence, said he, two things appear: first, that the expenses attending agency to the West Indies have usually been charged to the account of contingent expenses, and will of course be provided for when we make the usual appropriation for that purpose; and secondly, that it would be useless to appropriate \$20,000 for the contingent expenses of Government, were it not for the object of foreign intercourse; that that appropriation is in fact an appropriation for foreign intercourse; and that the sum with which they were going to fill the blank would be, in fact, in addition, not to the \$40,000 already appropriated, but to a sum of \$60,000, which might eventually and commonly was

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applied to defray the expenses of foreign intercourse.

The question being put for \$30,000, it was negatived—40 to 36.

Mr. W. SMITH then moved \$25,000. He said there would be no more inconvenience from voting a large sum than a small one, as if it was not wanted, it would not be expended. With respect to the \$40,000 already appropriated, he believed it was wholly expended in salaries, and \$25,000 might be wanted for contingent expenses. The question was put and lost—38 to 37.

The question was then put and carried on \$20,000, by a large majority.

THURSDAY, May 19.

The bill for providing relief for persons imprisoned for debt was read a third time and passed.

The bill directing certain experiments to be made to ascertain a uniform principle to regulate Weights and Measures, was read a third time and passed.

The amendments by the Senate to a bill in addition to an act supplementary to an act for providing more effectually for the collection of duties on goods, wares, and merchandise imported into the United States, were twice read, and ordered to be committed to a Committee of the Whole to-morrow.

Mr. W. SMITH, from the Committee of Ways and Means, to whom were referred the bill from the Senate regulating the compensation of clerks, reported the bill, with one amendment; which was read.

A message was received from the Senate, with their amendments to the bill for laying duties on carriages for the conveyance of persons; which were twice read, and referred to a select committee.

SHIPS' PASSPORTS.

The bill for providing passports for ships and vessels of the United States, which originated in the Senate, was about to be read the third time; when

Mr. S. SMITH said, he believed there was a clause in the bill originating revenue, (as it directed sums to be paid for passports,) which was an encroachment upon the powers of that House, who only had a right to originate revenue laws. He believed the Senate had done it without intention, and he did not wish to enter into any contest with them on the subject, but to postpone the consideration of the bill.

Other gentlemen thought it would be better to reject the bill, and originate a new one; which course, after some observations, was adopted.

The bill was accordingly read a third time, and rejected unanimously.

Mr. W. SMITH said, that as they had rejected the bill providing passports, as improper to have originated in the Senate, he would move, "That the Committee of Commerce and Manufactures be instructed to bring in a bill for providing passports for ship and vessels of the United States." Agreed to.

EXPENSES OF FOREIGN INTERCOURSE.

The bill making further provision for defraying the expenses of intercourse with foreign nations, and to continue in force an act providing means of intercourse between the United States and foreign nations, was read a third time; and after a few observations on the time which it should remain in force—in the course of which it was observed, by Mr. GILES, that he hoped the time was not far distant when they should have less to do with foreign nations than they had at present—its continuance was confined to one year, and from thence to the end of the next session of Congress. The blank for the sum of money appropriated was filled up, according to the estimate from the proper Department, with \$324,539 06. The bill was then passed.

ROAD FROM MAINE TO GEORGIA.

Mr. MADISON moved that the House should resolve itself into a Committee of the Whole on the bill enabling the PRESIDENT to cause to be examined, and, where necessary, surveyed, the post roads from Wiscasset in Maine, to Savannah in Georgia, and to report the expense that would attend the transmission of the mail thereon. The House resolved itself into a Committee of the Whole accordingly, when, after two amendments, viz.: adding the city of Washington to the other towns mentioned, and inserting Portland instead of Wiscasset, and filling up the blank appropriating a sum of money for the purpose, with five thousand dollars, the Committee rose and reported the bill. The House took up the amendments, agreed to them, and the bill was ordered for a third reading to-morrow.

DUTY ON SNUFF.

Mr. S. SMITH having made a motion to go into a Committee of the Whole on the bill supplementary to the act, entitled "An act to alter and amend the act laying certain duties upon snuff and refined sugar,"—

Mr. SWANWICK presented a second petition from Richard Grenon & Co., expressive of the injury they should receive by the alteration which was proposed to be made in the drawback to be allowed on snuff exported, and praying, amongst other things, that the intended act might not have force until April 1, 1797, in order that they might fulfil their present engagements with foreign countries.

The House then went into Committee of the Whole on that subject; when

Mr. BOURNE, from the Committee of Commerce and Manufactures, said that they had been favored with information from various quarters, and he trusted the present bill would meet the wishes of manufacturers, and produce considerable revenue. The first clause, he said, provided for mills being entered for a year or less, the want of such a provision having destroyed many manufactories, who, for various reasons, did not keep their mills going the whole year. They had also inserted a clause to remit the duty in the case of destruction by fire, or otherwise, at the instance of manufacturers. With respect to the drawback, it had been found

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necessary either to take it away altogether, or considerably to reduce it. They had chosen the latter way of remedying the evil. Mr. B. said, it appeared from the report of manufacturers of different kinds of snuff, that, if the duty continued as at present, it would operate very unequally, and that manufacturers of wet tobacco ought not to pay more than one-third of the duty paid by those who manufactured it dry. The bill was conformed to this principle, and seemed to be agreed to, both by manufacturers of wet and dried tobacco.

Mr. GALLATIN wished, before he made any observations on the subject, the gentleman last up would give the Committee more information relative to snuff manufactured wet and dry, and whether it was not calculated, that, when it was manufactured wet, less was done in the same time, and of a better quality, than when manufactured dry, and whether that manufactured wet did not sell at a higher price than that manufactured dry.

Mr. BOURNE said, he was not very well acquainted with the manufacture of snuff. He would read the petition, which he had in his hand, on that subject; by which it would appear that three times the number of mortars was necessary for the manufacturing of wet, that were necessary in manufacturing dry tobacco.

Mr. GALLATIN believed the snuff manufactured wet, was of a better quality, and would sell for more money than that manufactured dry. It was well understood that the law, as it now stood, instead of being productive, was a bill of cost, more being paid in drawbacks than was received for duty. This arose, chiefly, from the exportations of one manufacturer, who, it seemed, manufactured a larger quantity than was supposed to be possible when the bill passed. He did not know whether this arose from the snuff manufactured by him being of an inferior quality, or whether it was from the introduction of new machinery into the manufactory. Yet, he believed, that, shape the bill as they pleased, no revenue would ever be drawn from snuff.

At present, to remedy one grievance, another was introduced, which would be as disadvantageous as the drawback, by giving leave to a manufacturer making snuff wet to pay only one-third of the duty paid by those who manufactured it dry. He knew no way of discovering whether snuff had been manufactured from wet or dry materials. This provision was meant to apply to a manufacturer who made snuff of a superior quality to any other person, but he was informed it would equally apply to one who made very large quantities of a quality which sold cheaper at market, so that he would only pay one-third of the duty paid by other manufacturers, although he made more. He believed he might depend upon the information he had received, though it was not from the person himself.

He objected to another part of the bill. It reduced the drawback from six cents to one cent. This might be even too much to be allowed to some manufacturers, but certainly was too little for others. He would beg leave to read an official

paper, sent to the Committee of Ways and Means by the Secretary of the Treasury, from James Miller, collector of revenue at Newcastle, stating that a snuff-mill in that neighborhood, (of which Mr. Jones, of Philadelphia, was the owner,) made 1,100 pounds of snuff a week, worked — months in the year, and paid \$1,120 duty; which reduced the duty to three cents per pound. This, he said, was the only official paper they had respecting Scotch snuff. If a duty of three cents per pound was paid upon Scotch snuff, a drawback to that amount ought also to be given. At the same time, if they were to reduce the drawback to three cents, it would be vastly too much to be allowed to the other manufacturer above alluded to. If this last could, as was asserted, manufacture 500,000 pounds a year, and he paid for his mill \$2,200, it reduced the duty of his snuff to less than one cent. Hence arose great difficulty in laying down a system for collecting this tax. It was so difficult, that the Committee of Commerce and Manufactures had reported a bill to take off the drawback altogether. That bill was recommitted, and this had been brought in. A drawback certainly ought to be allowed in proportion to the money paid. Mr. G. said he had collected some information on the quantity exported before the tax was established. He found the exports, by the custom-house books, had increased from 12,000 to 37,000 pounds a year in three years. From information, he understood that the quantity thus entered on the custom-house books was not more than one-third part of the whole exported, because a part of the snuff manufactured in this country was sent to the English West India Islands, which could not go, except smuggled. He might state the yearly exports before the tax, at 100,000 pounds a year. Any step taken to lay an excise upon this manufacture, without a drawback, was, in his opinion, unjust and impolitic. Tobacco was as much a staple of America as wheat; and to lay a duty on the exportation of tobacco manufactured into snuff, (for an excise, without allowing a drawback, was a duty on exportation,) appeared to him as improper as to lay a duty on the exportation of wheat manufactured into flour. As to the idea of snuff being a luxury, tobacco used for smoking or chewing was equally so, and, in point of justice, there could be no difference between them.

Mr. G. read a letter from the Commissioner of the Revenue to the Committee of Ways and Means, in order to prove the great difficulty which lay in the way of making this tax equal, just, and to prevent fraud. One of the instances of fraud, was the using small hand-mills which were worked without the least noise. He wished the law was repealed, since it was vexatious and unprofitable; the whole tax not producing more than \$12,000 a year, if all was paid; and if no drawbacks were allowed, and costing, perhaps, \$20,000, if drawbacks were continued.

As this bill was under consideration, and something seemed necessary to be done, he would only propose such amendments as he thought would improve the bill.

Mr. G.'s amendment was, that, instead of allow

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ing a certain drawback on snuff, the drawback should vary, and should be — per cent. on the value of the snuff, according to its quality.

Mr. G. withdrew, afterwards, this amendment, in order to make room for another which went to repealing, altogether, the law, and which was carried.

Mr. S. SMITH hoped the amendment would not prevail. It would be going more in the dark than they had yet gone. The tax had always appeared to him an insignificant one. If the gentleman from Pennsylvania had persevered in his first intention of proposing a repeal of the tax, he would have joined him in it; for, he said, it had been a sinking fund, instead of an advantage to the United States. Indeed, one manufacturer had raised a very large bounty, indeed, from it, who now came forward to pray the House not to repeal it, as it would ruin him. The deeper, he said, they went into a tax on manufactures, the more difficulties would be experienced, without having the effect to raise any revenue.

Mr. VENABLE said, the more this subject was looked into, the more evident it appeared that nothing could be done in the matter at this late period of the session. In order to try the sense of the Committee on the occasion, he should move to strike out the first section. Gentlemen appeared to be fond of this system of taxing manufactures, and seemed desirous of continuing to harass the people with further experiments which, he was confident, would not be more successful than the past. As the tax stood at present, it was a loss, instead of a gain, to the United States. Gentlemen said this tax could not be repealed, until it was replaced by another; but, he said, if nothing was received from it, there was no necessity for providing a substitute for it; but, on the contrary, to repeal it, would be to do away a constant drain upon the Treasury. He would, therefore, either repeal the law altogether, or suspend it until next session.

Mr. SWANWICK was of opinion, with the gentleman from Virginia, [Mr. VENABLE,] that the act ought to be repealed, believing that it would never produce anything but uneasiness and dissatisfaction in whatever way the tax might be collected. A proposition was now made to reduce the drawback of six cents to one. How could gentlemen reconcile this with the law imposing the duty.

Undoubtedly, said Mr. S., there was a good deal of force in the argument of a manufacturer who complained of the instability of our laws on this occasion; for, upon a supposition of a continuance of this law, he had enlarged his manufactory; but now, all at once, the drawback was proposed to be reduced from six cents to one cent per pound. He hoped the motion would be agreed to, because he believed to repeal the law would eventually be the least loss to the Union.

Mr. W. SMITH said, that gentlemen would not accomplish their object by striking out the first section. It went to modify the tax in a way which, he believed, would be generally acceptable to the manufacturers. If the first section was struck out the tax would still exist; and, he supposed, no

gentleman would think it possible to repeal the snuff tax this session, without violating the public engagements. Indeed, if they were to agree to such a repeal, without a substitute, the PRESIDENT and Senate would probably not concur. The duties arising from snuff and refined sugar were appropriated, by an existing law, to the payment of a loan which had been made, and the faith of the United States was pledged to make good any deficiency. He conceived it was not a sufficient reason for repealing the law, because it did not produce as much as was expected from it. An argument of this sort would go to the repeal of every other duty. He thought, when a tax was pledged which was not productive, it should either be so modified as to become so, or a new one substituted in its place. If the tax on snuff was not productive, and could not be made so, the gentlemen opposed to it should substitute another for it; but, until this was done, he hoped they would endeavor to modify it so as to make it productive. The same reason which was given for repealing this tax, might be applied to sugar, and to the excise on spirits; and, by this means, instead of adhering to any system for increasing the revenue, they would fritter away the existing revenues. Some members were perpetually complaining about the increasing of the debt. It was certainly desirable not to increase it; but, if they were to go on this way, an increase of debt was inevitable. But they say this tax produces nothing, because it is not properly modified—let it, then, be properly modified. The manufacturers themselves do not generally wish the tax repealed; they wish only to have it regulated in the manner proposed by the bill.

Individual manufacturers, Mr. S. said, had no claim upon the United States for any loss they may sustain on account of any necessary changes in their revenue laws; the manufacturers of snuff themselves, in a pamphlet written in their behalf, had exposed the practices made use of to deceive Government in the business of drawbacks. [Mr. S. read some extracts from the pamphlet.] He thought that, as the revenue had not been so productive as it might be, they ought to endeavor to make it so. He believed the mode proposed would have that effect. He would rather do away the drawback altogether, than repeal the law; but some gentlemen had thought this would be violating a principle of the Constitution, by laying a tax on exports; he was, therefore, willing to put it at one cent. If it were the object of gentlemen to destroy the bill, they had better let it pass to the third reading, and then negative its passing. When the tax was first laid, it was laid upon the pound; but, on the manufacturers' complaining of great inconvenience, in order to accommodate them, another law was passed, changing the mode of collecting the tax, by laying it on the mortar. This did not satisfy some of them, and he believed, however, if a tax was laid, there would be some complaint against it. It was in the nature of taxes to be inconvenient and unpleasant; but, because a clause in the bill before them was not perfectly agreeable to gentlemen, was that a reason for giving up the duty altogether? If the manufacturers pre-

ferred returning to the original mode of paying the duty by the pound, he had no objection to it.

Mr. SMITH was of opinion, there was no article a more proper subject for taxation than snuff. It was said, why not extend the tax to tobacco? He would inform them that the report of the Committee of Ways and Means originally stood so, but tobacco had been struck out. It might be remembered, that snuff imported, formerly paid a considerable duty; but to favor our own manufactures, the duty had been increased on foreign snuff so high as to amount to a prohibition, and, unless it produced a revenue in this way by excise, none would be derived from snuff; and he could not see why they should lay a duty on brown sugar and spirits, and not on snuff, which was certainly a mere luxury, and an article of caprice. He did not know a more fit article of taxation, and, if the prohibition of foreign snuff was to be continued, he thought the excise ought also to be continued. He was of opinion that, to alter the law as now proposed, would improve the revenue, and give satisfaction to the manufacturers in general.

With respect to the particular manufacturer who was to be disappointed by this alteration of the law, if he suffered loss he should be sorry for him; but they were not to consider his interest alone in preference to that of the United States. That manufacturer could not have considered the law as passed merely as a bounty to him; if he did, the Legislature certainly thought otherwise; they thought of raising from forty to fifty thousand dollars a year from the tax, and this would have been raised if the duty had been fairly collected at six cents per pound. The sums laid upon the mortars, as an equivalent to the six cents, were taken from Mr. Leiper, one of the manufacturers, by himself, and now he was dissatisfied. He hoped they would pass the bill, and continue the drawback at one cent; but, if it was proper that Mr. Gernon, or any other person, should take \$100,000 from the Treasury for drawbacks, it would be proper to agree to the motion.

Mr. SWANWICK said, no gentleman wished more to preserve the public faith inviolate than he; but he was sure that the gentleman who was so zealous for the public faith, as it related to the doing away of this law altogether, did not pay so much respect to it, as it related to the manufacturer who would be injured by this new law. The present law, he said, was passed in 1795, and was to continue in force till the year 1801; it allowed six cents per pound drawback on exportation. In consequence, a certain manufacturer had turned his whole attention to the exportation business, and had drawn large sums of money from the Treasury; but now, when he had enlarged his works, relying upon a continuance of the act till the time mentioned, the drawback was proposed to be reduced from six cents to one cent. There was at least instability, if not injustice, in this. In other countries, he knew, when a change in their imposts took place, there was always some time given before the new act took place. If gentlemen expected any revenue would be raised by this new bill, he believed they would be disappointed.

He believed it was a tax which would never be beneficial. Whatever bill they might pass, he believed no revenue would be produced, but that the tax would continue to be vexatious.

Gentlemen had said that snuff was a fit article from which to raise a revenue; but, he believed, whatever methods were taken to tax it, they would prove ineffectual, and would only encourage fraud and vice. Since the establishment of the tax, it had been a continued vexation to the Government and to the people, and the new law had always been worse than the old one; and, if the law now proposed were to pass, he doubted not there would, next session, be occasion again to change it. But the gentleman from South Carolina said, why not substitute this tax with another, if it was to be repealed? He had always considered of a substitute. He had no doubt there was a mode of raising more money than was raised at present by excise laws, without complaint; the mode he meant was by a national lottery, which would be a tax collected with ease, and was a practice which had been adopted by all nations. He thought it would be an unexceptionable source of revenue. There were various other means of raising revenue, and why should they be hobbling along with this tax on snuff, which, in fact, proved a tax upon the Government itself.

The gentleman from South Carolina said, that if this House were to repeal this tax, the PRESIDENT and Senate would not concur. He could see no reason for such an assertion as this. He wished the tax to be repealed; but, however, if gentlemen chose to go on with another experiment, he must submit; but, in that case, he hoped some time would be allowed for the change taking place, as he did not think it should be momentarily effected.

Mr. W. LYMAN hoped the motion would prevail to strike out the first section; as he was of opinion they might lose money by a tax on snuff, but he believed they should get none. He always thought the tax an improper one; and he believed no gentleman contemplated a tax upon this article without a drawback, as this would be contrary to the Constitution. If no other consideration would influence them to do away this tax, motives of policy ought to do it. One-half, if not three-fourths of the snuff consumed throughout the known world was the produce of America. It was true wisdom, therefore, to endeavor to export it in its manufactured state, and by that means draw the money which is paid for that process in other parts into the United States. If they were to let this manufacture alone, he believed, this would soon become the case; and surely, for a few thousand dollars a year, it was not worth their while to risk the defeat of so great an object. When he contemplated the drawback to be allowed on the exportation of this article, it always appeared to him impossible so to regulate it as to prevent it from being eluded. They had had some experiment of the unproductiveness of this tax, and other countries might hold out instructions to us on the subject. He believed no article upon which the taxing hand of Great Britain was laid, eluded

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its grasp more than this article of snuff. It was out of their power to collect any great revenue from the article. The State from which he came had made attempts to tax snuff and tobacco; and whilst the tax remained, there was not a session of the Legislature passed without alteration, till at length they abolished it. It was considered by their Government as an eligible article of taxation, and gentlemen were unwilling, as at present to relinquish it; but at length they saw the wisdom of doing so. He trusted that House would follow their example; for, he observed, if they were to adopt the plan proposed in the bill before them, they should be acting in the dark, by not knowing how it would operate, and they had no business to make laws at random.

With respect to repealing the law, he believed it would be more profitable to do that than to suffer it to operate as it now did; some manufacturers, he believed, would suffer from this, but that was not a consideration for them. The tax was laid for the purpose of producing revenue; if it failed in this, and the failure did not appear to be remediable, there surely could be no good reason assigned why they should continue to harass one part of their citizens for the sole purpose of enriching others. As to what had been said about replacing this tax with another, before it was abolished, as it confessedly produced nothing, there was no necessity for a substitute for it. He thought there were many objects of taxation more fair and equal than this. Mr. L. was of opinion with the gentleman from Pennsylvania, that lotteries were a good way of raising revenue.

Mr. BOURNE did not expect a motion would have been brought forward to repeal this law; if it had been brought forward earlier in the session, some other tax might have been substituted in its place. Gentlemen say the tax ought to be repealed, because it would always be unproductive. If, indeed, they were convinced of this, it would be good ground for a repeal; but, he asked, if a fair experiment had been made with it? He said there had not. Many manufacturers ceased their business, when the tax was first laid, and it was changed. The present law had been equally injurious to small manufacturers, for want of authorizing their mills to be entered for a less time than a year. Under this sort of experiment it was that gentlemen wished the tax to be repealed. Why, asked he, cannot revenue be raised in this country, from this article, as well as in other countries? Had not this Government as much energy? Was it not equally capable of carrying a law of this sort into effect? He believed it was, and that the bill now proposed, would remedy the grievances complained of.

Few of the manufacturers, he said, had asked for a repeal of the law. None except in Pennsylvania, notwithstanding they had petitions from many of the States; all that was asked for was a modification of the law. Whatever objections there might be to different parts of the bill, they might be obviated in passing through it, if gentlemen were not determined to do away the tax altogether.

Gentlemen had said, that if the drawback was reduced or discontinued, it was a breach of faith with certain manufacturers. He thought the objections were equally strong against a repeal of the law. The chief objections were against the disproportion of the drawback, and not against the duty itself. He hoped, therefore, the first section would not be struck out; but that the bill before the Committee would be candidly gone through. He believed with the gentleman from South Carolina, that to repeal the law, would be a violation of public faith, and they could not consistently do it without substituting another tax for the one repealed.

When a law was unproductive, the proper way was to modify it and not repeal it, until due experiment had been had of its being an improper tax. He did not think the experiment had yet been fairly tried.

Mr. VENABLE was surprised to hear from the gentleman from South Carolina that the United States were obliged to keep a tax in force, though ever so unproductive, until it was substituted by another. As nothing was produced by the tax, no reasonable objection, on the ground of revenue, could be brought against its repeal. He objected to the duty and drawback in the bill before them as out of proportion, and said if it were to pass, it would certainly be a duty on the produce of the United States, as much as if a duty of a dollar per barrel was laid upon flour, and a drawback of three quarters of a dollar was to be allowed on exportation. There would then evidently remain one quarter of a dollar duty on all flour exported.

The gentleman from South Carolina had read an extract from a book which proved that wherever such taxes were laid, they were evaded by the cunning of those whose interest it was to deceive Government. He believed this was true, and that it would always continue to be so, and therefore the sooner the law was repealed the better.

Mr. FINDLEY said, the question was rather an unusual thing. It was not whether they should make a law, but whether they would go into an experiment. He had no objection to the experiment's being made, but he believed it would prove like the rest. There were difficulties on every side. If the drawback was entirely taken off, an article in the Constitution was broken; and if any were allowed, it seemed too much for some manufacturers. His colleague had given instances in which the tax was evaded. Indeed, he thought the impediments were so great as not to induce a continuance of the tax.

Mr. GALLATIN had not intended to have troubled the Committee again on this subject, had it not been for what had fallen from the gentleman from South Carolina, on the subject of public faith. But he could not see how any faith could be violated by repealing a tax which produced nothing, as had been shown with respect to the tax on snuff. But supposing the tax to have been productive and that from its being repealed there was a deficiency in the revenue, would it affect the interest of the public debt? Certainly not

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That must be paid; and if there was any deficiency in the receipts of the revenue it would fall upon the current expenses, and not upon the interest of the public debt. But this was not all. To what purpose was the amount of this appropriated? It was to be applied, with four other taxes, to the year 1801, to pay the interest and principal of the Algerine million loan. The Secretary of the Treasury had said the interest of this loan was fully secured; but the taxes were not productive enough to reimburse the principal. From this report, a bill had been passed to borrow five millions for the purpose of paying the bank this million, together with the anticipations which had been advanced upon the revenue.

The whole argument, therefore, of public faith, fell to the ground. It had nothing to operate upon. The gentleman from Rhode Island [Mr. BOURNE] had said, that an objection to the drawback was not an objection to the bill. It was an objection to the whole plan. If, said Mr. G., you allow a drawback larger than the duty, it was better to have no law. If the only remedy was either to allow no drawback at all, or to repeal the law, an objection to the first plan was an objection to the whole system of taxing snuff.

Mr. DAYTON (the Speaker) intended to have observed some time ago that if a repeal of this tax or excise was the object of gentlemen, the proposed motion could not have the effect; because if all the five sections were struck out, the bill would be complete with the sixth section remaining; therefore the present proceedings were wholly irregular; the sense of the Committee could not be taken with respect to a repeal of the law, but upon the bill before them, to amend it.

Mr. NICHOLAS believed they had the power of determining what they would do in this business. If striking out the first section would not have the wished-for effect, they might strike out all the sections one after another. By striking out the first section, he believed the sense of the Committee would be determined.

The question being put for striking out the first section, it was carried, 40 to 32.

The Committee rose, reported the bill, and asked leave to sit again, which was refused, 41 to 32.

Mr. VENABLE then laid a resolution on the table, to appoint a Committee to bring in a bill for repealing the act imposing a duty on snuff; but the day following it was agreed that instead of repealing the act, it should be suspended only till next session of Congress, and that the Secretary of the Treasury should in the mean time prepare a plan of collecting a tax on snuff.

The House then adjourned.

FRIDAY, May 20.

The bill concerning the post road from Portland in Maine to Savannah in Georgia, was read a third time and passed.

A message was received from the Senate informing the House that they had resolved that the bill for the relief of Moses Myers, should not pass; and that they had passed the bill altering the com-

pensation of the Accountant of the War Department, with amendments.

The House took up the consideration of the amendments, which were, that instead of \$1,600 \$1,800 should be the future salary of the Accountant, and that he should send and receive all letters by post, free of expense.

After a few observations, on motion of Mr. HEATH, the yeas and nays were taken upon the first amendment and stood yeas 19, nays 50, as follows:

YEAS.—Messrs. Theodorus Bailey, Benjamin Bourne, William Cooper, Jesse Franklin, Ezekiel Gilbert, William B. Giles, Nicholas Gilman, Henry Glen, Thomas Hartley, Nathaniel Macon, William Vans Murray, Samuel Sitgreaves, William Smith, John Swanwick, Zephaniah Swift, Absalom Tatom, George Thatcher, John E. Van Allen, and John Williams.

NAYS.—Abraham Baldwin, Thomas Blount, Theophilus Bradbury, Nathan Bryan, Dempsey Burges, Gabriel Christie, Joshua Coit, Isaac Coles, George Dent, Samuel Earle, William Findley, Abiel Foster, Dwight Foster, Albert Gallatin, James Gillespie, Chauncey Goodrich, Christopher Greenup, Andrew Gregg, Roger Griswold, Wade Hampton, George Hancock, Carter B. Harrison, Jno. Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, Thomas Henderson, William Hindman, James Holland, George Jackson, Aaron Kitchell, Samuel Lyman, William Lyman, Samuel Maclay, Francis Malbone, Andrew Moore, Frederick Augustus Muhlenberg, Anthony New, John Nicholas, Josiah Parker, John Reed, John Richards, Nathaniel Smith, Israel Smith, Richard Sprigg, jr., Thomas Sprigg, Richard Thomas, Uriah Tracy, Abraham Venable, and Richard Winn.

This amendment being negatived, the other was put and carried.

Mr. W. SMITH, from the Committee of Claims, reported a bill providing for the more effectual collection of certain internal revenues of the United States, also, a bill limiting the time allowed for a drawback on the exportation of domestic distilled spirits, and allowing a drawback on spirits exported in vessels of less burden than thirty tons by the Mississippi.

These bills were read twice; the former ordered to be committed to a Committee of the Whole on Monday, and the latter ordered to be engrossed for a third reading to-morrow.

Mr. THATCHER proposed a resolution to the following effect, intended to fix an earlier period for the meeting of the next session of Congress.

"Resolved, That a Committee be appointed to report a bill for altering the time of the next meeting of Congress."

This resolution was negatived, 43 to 30.

Mr. GILES called up the resolution yesterday laid upon the table, to appoint a Committee to bring in a bill to repeal the duty on snuff, which being agreed to be taken up, he proposed to strike out the words "ought to be repealed," and to insert "ought to be suspended until the end of the next session of Congress." He had no objection to the law being repealed, but he believed many other gentlemen wished it to have a further experiment, and he had no objection to have them in-

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dulged. The motion was agreed to, and referred to a committee to bring in a bill.

On motion of Mr. TRACY, a resolution to the following effect was also agreed to:

"Resolved, That the Secretary of the Treasury be directed to prepare and lay before Congress at their next session, a mode for collecting a tax on snuff."

Mr. BOURNE, from the Committee of Commerce and Manufactures, reported a bill for providing passports for ships and vessels of the United States, which was read twice and ordered to be referred to a Committee of the Whole to-morrow.

Mr. W. SMITH moved a resolution to the following effect:

"Resolved, That a Committee be appointed to bring in a bill authorizing the PRESIDENT OF THE UNITED STATES to lay and regulate embargoes during the recess of Congress."

The resolution was agreed to, 36 to 29.

Mr. BOURNE, from the Committee of Commerce and Manufactures, reported a bill for suspending the duty on snuff, which was twice read and ordered to be engrossed for a third reading to-morrow.

A message was received from the Senate informing the House that they had receded from their amendment to the bill altering the compensation of the Accountant of the War Department; and that they had passed the act for ascertaining and fixing the Military Establishment of the United States, with amendments, also an act concerning the Mint; to which they requested the concurrence of that House.

WIDOW OF GEN. GREENE.

After a number of observations upon the propriety of doing so, the House resolved itself into a Committee of the Whole, Mr. SWIFT in the chair, on the report of the Committee of Claims on the petition of Catharine Greene, widow of the late General Greene. Some very long documents on this subject were read, and considerable debate had on the merits of the claim; but the usual hour of adjournment being past, and the reading of other papers being called for, the Committee rose, had leave to sit again, and the House adjourned.

SATURDAY, May 21.

Mr. NEW, from the committee to whom were referred the amendments of the Senate to the bill laying a duty on carriages, made a report to agree to the amendments. These amendments do not make any material change in the bill. The report of the committee was agreed to.

Mr. BOURNE, from the Committee of Commerce and Manufactures, reported a bill to authorize the PRESIDENT to lay, regulate, and revoke embargoes, during the recess of Congress. It was read twice and ordered to be referred to a Committee of the Whole on Monday.

The bill to suspend part of an act to alter and amend an act for laying certain duties upon snuff and refined sugar, was read a third time and passed. Also, the bill limiting the time for allow-

ance of drawbacks on the exportation of domestic distilled spirits, and for allowing a drawback on such spirits as shall be exported in vessels of less than 30 tons burden by the Mississippi.

The bill from the Senate respecting the Mint, was read twice and referred to the Mint Committee.

The disagreement of the Senate to the amendment to the bill for the relief of persons imprisoned for debt, was read. The amendment proposed by the House was to put the laws of the United States, with reference to debtors, upon the same footing with the laws in the State, where any action might be brought. On motion for a committee of conference, to be appointed to insist on the amendments, it was carried, 36 to 24.

The Committee of the Whole, to whom was referred the amendments of the Senate to the bill in addition to an act, entitled an act supplementary to the act, entitled an act to provide more effectually for the collections of duties on goods, wares, and merchandise imported into the United States, and on the tonnage of ships or vessels, was discharged, and the bill, with the amendments, was referred to the Committee of Commerce and Manufactures.

Mr. W. SMITH, from the Committee of Ways and Means, to whom was referred the amendments of the Senate to the bill regulating the compensation of clerks, made a report thereon; which was agreed to, read the third time, and passed.

Mr. MADISON, from the committee to whom was referred the bill from the Senate respecting the Mint, reported the bill with an amendment limiting its duration to two years and from thence to the end of the next session of Congress. The report was ordered to be committed to a Committee of the Whole to-day. The House, therefore, resolved itself into a Committee of the Whole, and agreed to the bill and amendment; the House then took it up, and ordered it to be read the third time on Monday.

MILITARY ESTABLISHMENT.

The amendments of the Senate to the bill fixing the Military Establishment were read. They went to the retaining the whole number of light dragoons and the Major General, and directing that men should be enlisted for five instead of three years. The amendment respecting the dragoons being under consideration—

Mr. BALDWIN informed the House that the amount of the amendments of the Senate was this, to keep up 320 dragoons instead of 52, and to retain the Major General. It appeared to him that the House, having determined upon these subjects already, would be at no loss to form an opinion upon these amendments.

Mr. WILLIAMS hoped that the amendment from the Senate would not be agreed to. This House had taken great pains to mature the bill, and he was of opinion that the number of troops agreed to was sufficient for a Peace Establishment. No gentleman had observed to the contrary; any addi-

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tion would not only be an augmentation to the great expenses already accrued by the late war, but be a mean of retaining in the Army useful citizens, who would be otherwise employed in pursuits of much more benefit to the United States. Let us reflect on the appropriations made this session, and compare them with the situation of our Treasury. In the Letter from the Secretary of the Treasury to the Chairman of the Committee of Ways and Means, it is stated that there will be a deficiency in the course of the current year, to meet the probable necessary appropriations, the sum of one million three hundred and ten thousand six hundred and five dollars and thirty cents, which sum must be obtained from loans or new revenues. Thus situated, ought we to keep up an Army which is not wanted? He hoped they would not. Were they wanted, he would endeavor to provide means for their support; but, as he conceived they were not, he did not see the propriety of expending money, taken on loan, which must be done if his motion did not succeed.

Mr. W. LYMAN hoped the amendment would be disagreed to.

Mr. S. SMITH said, the Senate seemed to contemplate these light dragoons, on account of the officers, who were to do duty on horse or foot, as necessity required. From this idea, he would suggest the propriety of agreeing to the amendment.

Mr. KITTERA said, the Army would be placed so widely from each other, that the horse would prove very useful.

Mr. GILES had no idea of keeping up the horse for the sake of the officers.

Mr. GILBERT was in favor of retaining the whole number of horses.

On motion of Mr. WILLIAMS, the yeas and nays were taken, and the amendment was negatived, 58 to 22, as follows:

YEAS.—Benjamin Bourne, Theophilus Bradbury, Joshua Coit, William Cooper, Dwight Foster, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Roger Griswold, Thomas Hartley, William Hindman, John Wilkes Kittera, Samuel Lyman, Francis Malbone, William Vans Murray, Samuel Sitgreaves, Nathaniel Smith, Isaac Smith, Samuel Smith, George Thatcher, Uriah Tracy, and Peleg Wadsworth.

NAYS.—Theodorus Bailey, Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Gabriel Christie, Thomas Claiborne, Isaac Coles, Jeremiah Crabb, George Dent, Samuel Earle, William Findley, Abiel Foster, Jesse Franklin, Albert Gallatin, William B. Giles, Nicholas Gilman, Christopher Greenup, Andrew Gregg, William Barry Grove, Wade Hampton, George Hancock, Robert Goodloe Harper, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Thomas Henderson, James Holland, George Jackson, Aaron Kitchell, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, John Nicholas, Josiah Parker, John Reed, John Richards, Robert Rutherford, Jeremiah Smith, Richard Sprigg, jr., Thomas Sprigg, John Swanwick, Zephaniah Swift, Absalom Tatom, Richard Thomas, John E. Van Allen, Philip

Van Cortlandt, Abraham Venable, John Williams, and Richard Wion.

The consideration of the propriety of retaining the Major General was next taken up.

Mr. NICHOLAS could not conceive any use for Generals. He believed if the Senate had struck out the General they sent them, the amendment would have been a good one.

Mr. GILES hoped they should not agree to the amendment. It would be a commencement of sinecures in the Military Department. There would be Generals without men to command. He believed the bill, as sent from that House, contained its full proportion of officers.

Mr. S. SMITH was in favor of the amendment. He said the expense would be no great things, and the present Major General would be very necessary in taking possession of the posts. Perhaps, at this time, it was essential to keep this man in command, as if he were discharged, it might create a derangement in our Army which might be fatal. The command of three thousand men, it was true, was too trifling for a Major General. But, perhaps, as this General had been the victorious means of procuring us peace with the Indians, immediately to discharge him, would appear like ingratitude, if not injustice.

Mr. RUTHERFORD concurred in opinion with the gentleman last up.

Mr. W. LYMAN said, they were not now called upon to reward the services of Major General Wayne, but to provide proper officers for their Army. If the gentleman from Maryland [Mr. S. SMITH] were to bring forward a measure of that kind, they should know how to decide upon it. Nor did he think the argument for making the office of a Major General, because the posts were to be received, had much weight. Any other officer would receive them as well as a Major General.

Mr. GILES said, he had no personal objections to the present commander of our Army; but he considered the present proposition such a breach of principle as he could not agree to. It was the making of an office for a man; as the gentleman from Maryland seemed to think the taking possession of the posts the principal business to be performed by him. If the services of this gentleman were necessary on that occasion, he would much rather pass a bill to make him a Commissioner for that purpose. All the arguments in favor of a Major General were in favor of the man, and not of the propriety of the office.

Mr. MURRAY said, the gentleman last up must know that the gentleman who had so successfully commanded our Western Army, was now in the service of the United States, yet he would insinuate that there was an intention of creating a new office. There was no disposition in those who wished to retain this meritorious man in service to create new offices. They were now about to make a regular Military Establishment; heretofore it had rather been a nominal one. There had been hitherto a Major General at the head of our corps, and he thought it would be proper to continue the command. There appeared to him

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a great deal of danger from the instability of their proceedings, an instability often charged upon a Government like ours. He would not attribute this to any other motive than such as were too apt to enter into large deliberative bodies. Was it right that when a man had led our armies to victory, and returned, that he should be immediately stripped of his commission? He thought not. It was said that this was done, because the Army was reduced; but he believed it was now as large as when General Wayne obtained his victory by it, for it was not then more than three thousand men; and yet, because they wished to retain this man in the service of the United States, they were told that they were creating new offices for which there was no necessity.

Mr. NICHOLAS said, with respect to the instability of their measures, he was ready to take his own share of it as well as that of the gentleman last up, for he never found him vary from one point; he was always desirous to keep up every office which had been once established. Mr. N. thought the conduct of gentlemen extraordinary. At one time they were to make our Establishment as large as possible, and when more favorable circumstances appeared, they were not to reduce it. Where were the benefits of peace, if they were still to keep up our war establishments? Gentlemen tell you that the Army would be as large now as before the reduction, yet the same gentlemen were opposed to its being reduced to the number now contemplated. This appeared something, like inconsistency. Mr. N. said, if they did not seize every favorable opportunity of lessening the expenses of Government, he believed their constituents would have good reason to complain of their want of attention to their duty.

Mr. MACON said, they ought to legislate on this subject as if there were no Army in existence. They had no permanent Establishment, as their men were discharged at the end of every three years. He believed our present commander was a very respectable officer, but he could not vote for a Major-General in the Establishment, which he thought unnecessary, because he thought him a deserving man.

Mr. BOURNE believed it was not necessary to have any appropriate number of men for a Major General to command. It had often been thought that a Major General was necessary. He believed they had thought so on former occasions. If any necessity should arise for the militia to be called out to aid the Army, such an officer would be highly necessary. He did not think it would be true economy to reject him.

Mr. GALLATIN said it was not pleasing to give a vote which was in some degree of a personal nature like the present. He was unacquainted with the gentleman who now held the office of Major General in our Army, and, therefore, was under no personal influence, and his opinion on the subject was formed upon the information of those in whose judgment on military affairs, he must necessarily confide, as it was a subject he did not understand. It was supposed that a Major General was necessary for a War Establish-

ment, but not for a Peace Establishment. He drew this conclusion from that grade ceasing with the war in 1783, and being again introduced in 1791, when the Indian war had commenced, and he understood it was more connected with the nature of the service than the number of men. The gentleman from Maryland [Mr. SMITH] said that the nature of the service of this Summer, required the service of General Wayne; but as the act they were about to pass would not take place till the 31st of October, as it was the opinion of all gentlemen of military knowledge, that there was no necessity for retaining a Major General in our reduced Army Establishment after the posts had been taken possession of, and as the whole Summer appeared sufficient for that service, he would vote against the amendment.

Mr. HARTLEY thought it best to have a Major General. The expense was but small, and in case of the militia being called out (as was mentioned by the gentleman from Rhode Island) a Major General would be necessary; besides, to reject him, would have the appearance of forcing this man out of office in an ungenerous manner.

On motion of Mr. BAILEY, the yeas and nays were then taken, and the Senate's amendment was lost, 49 to 34, as follows:

YEAS.—Fisher Ames, Benjamin Bourne, Theophilus Bradbury Joshua Coit, William Cooper, Dwight Foster, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Andrew Gregg, Roger Griswold, George Hancock, Robert Goodloe Harper, Thomas Hartley, William Hindman, John Wilkes Kittera, Samuel Lyman, Francis Malbone, John Milledge, Frederick A. Muhlenberg, William Vans Murray, John Reed, Robert Rutherford, Samuel Sitgreaves, Jeremiah Smith, Isaac Smith, Samuel Smith, William Smith, John Swanwick, George Thatcher, Richard Thomas, Uriah Tracy, John E. Van Allen, and Peleg Wadsworth.

NAYS.—Theodoros Bailey, Abraham Baldwin, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, Isaac Coles, Jeremiah Crabb, George Dent, Samuel Earle, William Findley, Abiel Foster, Jesse Franklin, Albert Gallatin, William B. Giles, Christopher Greenup, William B. Grove, Wade Hampton, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Thomas Henderson, James Holland, George Jackson, Aaron Kitchell, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, Andrew Moore, Anthony New, John Nicholas, Josiah Parker, John Richards, Nathaniel Smith, Israel Smith, Richard Sprigg, jr., Thomas Sprigg, Zephaniah Swift, Absalom Tatom, Philip Van Cortlandt, Abraham Venable, John Williams, and Richard Winn.

The amendment proposing that men should be enlisted for five, instead of three years, came next under consideration.

Mr. MACON hoped they should adhere to their usual practice.

Mr. S. SMITH thought, if the mode of enlisting men for five years, proposed by the Senate, was superior to that of enlisting them for three, which he thought it was, there was no reason against adopting it.

Mr. GILES hoped they should not agree to the

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amendment, as they had found no inconvenience from the customary practice; besides the gentleman from Maryland [Mr. MURRAY] would be again charging them with instability.

Mr. HARPER hoped the gentleman last up would show his instability on this occasion by joining them in supporting the present amendment. He believed it would be better to enlist men for five years than for three; for when they were enlisted for three years only, very shortly after they had learnt their trade, they were discharged. He believed a man would enlist for five years as soon as for three, and therefore it would be a very advantageous alteration in our present system.

Mr. JACKSON said, if it was in order, he would move to strike out *five* and insert *three*. He was confident better men would be got for three years than could be got for five. If men were to be enlisted for the latter period, he believed they should get for soldiers only the scum of the country. He said he was well acquainted with the business, and he knew that when men were enlisted for one year only, better men were got than since they had been enlisted for three years.

Mr. S. SMITH said, he also had had some experience in the business of enlisting men; and he had no-doubt good men would be got for five years as soon as for three. That men out of the Western country should wish to have men enlisted for a short period, he was not surprised, because, when their service was completed, the farmers got them for laborers; but if men were enlisted for five years, they would get less frequent draughts of useful hands from this part of the country. For this reason he was in favor of the measure.

Mr. HENDERSON said, if men could be got on the same terms for five years as for three, it would reduce two fifths of the bounty money paid at present by the United States.

The amendment to insert three instead of five, was negative, 40 to 31; and then the Senate's amendment was put and carried.

AMERICAN SEAMEN.

Mr. SMITH, from the committee appointed to confer with a committee from the Senate, on the subject of their amendments to the bill for the relief and protection of American seamen, reported that the committee appointed on the part of that House had receded from their disagreement to the amendments of the Senate, except in one instance. The report was agreed to. Instead of having certificates issued to three descriptions of American citizens, viz: natives, foreigners who were in this country in 1783, and those who have obtained their citizenship since, they are all to be included under the head of American citizens.

WIDOW OF GEN. GREENE.

Mr. HENDERSON said, he was very desirous of obtaining all the information possible before he was called upon to give a vote on the claim of the widow of General Greene. He was more desirous of this, as he had received no information

on the subject but what he had heard in that House, and he had considerable doubts in his mind on the subject. A letter having been mentioned yesterday to be in the office of the Secretary at War, which he understood would throw light upon the subject, he moved a resolution, calling upon the Secretary of War to furnish the letter in question.

This motion occasioned some debate, in which it was said the letter alluded to was a private letter from Mr. Burnett to General Knox, the late Secretary of War, and that it was therefore most probably not in the War Office. The motion was agreed to.

MONDAY, May 23.

The bill respecting the Mint was read a third time and passed.

WIDOW OF GEN. GREENE.

The House went into Committee of the Whole on the petition of Catharine Greene, widow of the late General Greene, for indemnity against the demands of Harris and Blachford, of London, merchants, on account of a certain bond which had been given to them by General Greene, as was said on account of the United States. The following was the report of the Committee of Claims:

"That this petitioner prays for indemnity against the demands of Messrs. Harris and Blachford, merchants, who have obtained a judgment against the estate of the late General Greene, for a large sum, in consequence of his being security to the said Harris and Blachford, for the debt of John Banks & Co., which debt, she states, was incurred for, and in behalf of the United States; and that General Greene gave security for no other purpose than to forward the interests of the public.

"On a strict investigation of this claim, the Committee find, that in the Fall of 1782, General Greene was authorized by the Department of War to obtain supplies of clothing for the Southern Army, then under his command; and, not long after, he contracted with John Banks, a partner in the house of Hunter, Banks & Co., for such supplies.

"In February, 1783, General Greene, under authority of the Superintendent of Finance, contracted with the same John Banks, to furnish such provisions as the same Army were in want of; both of which contracts met the approbation of his employers.

"Both these contracts required greater funds than the contractors could command, and the last, which was to supply rations for the Army, was near being defeated, because the creditors—for supplies on the former contract—were about to deprive the contractors of their means to fulfil the last. In this situation, Gen. Greene, had before him the alternative of turning the Army loose upon the inhabitants, to plunder for their necessary food, or support, by his own credit, that of the contractors. He preferred the latter, and gave, in addition to the security of John Banks & Co., his own bond to Harris and Blachford, to secure an eventual payment for articles which had gone to the use of the United States in clothing the Army.

"John Banks received of the United States the whole sum of the contract, but diverted the money from

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its proper channel, and left General Greene liable to pay the sum secured by the bond mentioned above, and another to Messrs. Newcomen and Collet. Banks & Co. became bankrupts, and soon after, Banks died.

"The Committee find that General Greene, as soon as he was apprised of any possible danger which might accrue to him, took measures to procure some security; but his attempts were ineffectual as to a complete indemnity. It appears he effected some payments, and obtained partial indemnity, but was left finally exposed to a large claim of Messrs. Newcomen and Collet, and this bond about which the present petition is conversant.

"Against the claim of Newcomen and Collet, Congress have indemnified the estate of General Greene, by an act passed April 27, 1792.

"This act has served as a precedent to the Committee, in deciding on the present petition, as there are the same reasons existing for the interference of Government now as then; to which may now be added the weight of precedent.

"For further particulars as to the merits of the claim, the Committee ask leave to refer the House to a report of the Secretary of the Treasury, made to Congress on this subject, the 26th December, 1791, and which is herewith laid before them. The bond given by Gen. Greene to Harris and Blachford for J. Banks & Co., is dated 8th April, 1783, for the sum of £18,473, 13s. 7d. South Carolina currency. This sum, by a variety of negotiations and payments, has been considerably reduced; the Committee have not been able to ascertain with precision the sum now due, but suppose it to be between eleven and twelve thousand pounds.

"The Committee are of opinion that General Greene gave this bond with the sole and honorable motive of serving, to his utmost ability, the then pressing interest of the United States: and that the salvation of the Southern Army, and success of our arms in that part of the Union, in a great measure depended upon this timely interference of his private credit.

"They think the honor and justice of Government is pledged to indemnify the estate of General Greene, and by paying the sum due to Harris and Blachford, save a deserving family from indigence and ruin. They therefore report, for the consideration of the House, the following resolution, viz:

"Resolved, That the United States ought to indemnify the estate of the late General Greene, for the sum due on a bond, given by the said General Greene to Harris and Blachford, bearing date April 8, 1783, for the sum of £18,473, 13s. 7d., South Carolina currency, as surety for John Banks & Co.: *Provided*, That it shall appear, upon due investigation, by the officers of the Treasury, that the said General Greene, in his life time, or his executors since his decease, have not already been indemnified, for the contents of the said bond: *And Provided*, That the said executors shall make over to the Comptroller of the Treasury, and his successors, for the United States, all mortgages, bonds, covenants, or other counter securities whatsoever, if such there are, which were obtained by General Greene in his life-time, from the said Banks & Co., or either of them, on account of his being surety for them as aforesaid; to be sued for in the name of the said executors, for the use of the United States: And the officers of the Treasury are hereby authorized to liquidate and settle the sum due to the estate of the said General Greene, to indemnify the same as aforesaid, according to the true intent and meaning of this resolution; and

to pay such sum as may be found due on the said bond: out of the Treasury of the United States, to the said executors, to be accounted for by them, as part of the said estate."

After some debate on this subject, in the course of which the SPEAKER read, in his place, a Letter he had received from the Secretary of the War Department, in consequence of a resolution passed on Saturday, calling for a letter which had been written by the late Colonel Burnett to the late Secretary of War, declaring that no such letter could be found in the War Office; and Mr. CORR spoke at considerable length against the claim—at length the question was put and carried in favor of the report, there being 51 members in the affirmative. The Committee then rose, and the House took up the consideration, when on motion of Mr. BLOUNT, who said he had intended to have made some observations on this subject, but finding the majority so large in favor of the report, he could not believe what he should say would have any effect, the yeas and nays were taken and stood, yeas, 56, nays 26, as follows:

YEAS.—Fisher Ames, Abraham Baldwin, David Bard, Lemuel Benton, Benjamin Bourne, Theophilus Bradbury, Richard Brent, Dempsey Burges, Thomas Claiborne, William Cooper, Jeremiah Crabb, Abiel Foster, Dwight Foster, Ezekiel Gilbert, William B. Giles, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Christopher Greenup, Robert Goodloe Harper, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, William Hindman, George Jackson, John Wilkes Kittera, Samuel Lyman, William Lyman, Francis Malbone, John Millidge, Frederick A. Muhlenberg, William Vans Murray, Anthony New, John Nicholas, John Reed, Robert Rutherford, Samuel Sitgreaves, Jeremiah Smith, Israel Smith, Isaac Smith, Samuel Smith, William Smith, Richard Sprigg, jr., John Swanwick, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Philip Van Cortlandt, Abraham Venable, Peleg Wadsworth, and John Williams.

NAYS.—Thomas Blount, Nathan Bryan, Samuel J. Cabell, Gabriel Christie, Joshua Coit, Isaac Coles, George Dent, Samuel Earle, Jesse Franklin, Albert Gallatin, James Gillespie, Roger Griswold, William B. Grove, Wade Hampton, George Hancock, Thomas Henderson, James Holland, Aaron Kitchell, Matthew Locke, Samuel Maclay, Nathaniel Macon, Andrew Moore, Nathaniel Smith, Thomas Sprigg, Absalom Tatom, and Richard Winn.

The resolution was referred to the Committee of Claims, to report a bill.

[The facts, as stated in the course of debate, were as follows:

A little time before the evacuation of Charleston by the English, in the Fall of the year 1782, a number of merchants who had settled there, under British authority, were under the necessity of leaving the city. Thus situated, these merchants were willing to dispose of their goods in a way that would secure their money, and enable them to leave the country immediately. John Banks knowing of this, and being, it is said, a man of a speculative disposition, determined to avail

himself of this offer. He therefore went into Charleston, at a time when General Greene was lying not far from its walls, and there made a contract with Messrs. Harris & Blachford for goods to the amount of £50,000, which were delivered to him under the firm of Hunter, Banks, & Co. After Banks had made this purchase, he entered into contract with General Greene to supply the Army with clothes. Some time after that contract had taken place, the Army was in want of provisions, and the supplies were cut off, and about to fail, when Banks came forward and made a contract to supply the Army with provisions; but the funds which were to enable him to fulfill this contract, were in the goods he had lately bought, and an interference of his partners and creditors took place. The creditors were afraid if these goods were disposed of for that purpose, their security would be lessened, and his partners were not willing that he should convert their joint property to his own particular benefit—for they, it seems, were to have nothing to do with the provision contract. To surmount these difficulties, security was required. The creditors of Banks would be satisfied, if security was given. In this state of things, General Greene became security for Banks, in his first purchase. Banks afterwards received the whole sum of the contract, but diverted the money from its proper channel, and left General Greene liable to pay the sum secured by the bond to Harris & Blachford.

The question in the Committee was, whether General Greene entered into this security with the sole view of obtaining provisions for his Army in a time of distress, or whether he had some concern or partnership in the transaction. The following particulars were mentioned, to prove that the security was given for no other purpose than that of obtaining food for his men. The first purchase of Banks was made in September, 1782: the evacuation of Charleston took place in December following. Bank's clothing contract was made a few days previous to the evacuation; his proposal for the provision contract was made about the same time, but not actually entered into till the 18th of February, 1783, and not completed till General Greene's security was given, on the 8th of April. On the 7th of May, General Greene got a counter security. It could not be seen, as was observed, for what purpose General Greene entered into this contract, if it were not for the relief of his Army. Had General Greene been a partner, would he have required security of Banks six months after the contract, when business was going on extremely well—when Banks was in good credit, and making money, and when no doubt could be entertained of him? It was insisted he would not; but, having no connexion with him, he thought it prudent to obtain a counter security.

On the other hand, various suggestions were thrown out which had somewhat of a suspicious appearance—such as General Greene's forcing his men to buy clothing, &c., of Banks, at an exorbitant price, reports in the Army, a letter said

to be written by the late Colonel Burnett, who, it appears, was a partner of John Banks, intimating that General Greene was a partner in the concern, though his name was never mentioned in it; but nothing like proof appeared to the Committee upon which to ground any reliance. Indeed, if General Greene had any concern with Banks, it seemed to be a matter which could not be proved, as, in General Greene's life-time, he brought an action against Mr. Ferry, one of the partners with Banks, which was tried at Charleston, when everything in Mr. Ferry's cause depended on proving General Greene a partner; but he failed in doing it, and having failed, it was said to be pretty strong presumptive evidence that it could not be proved; because Mr. Ferry might have brought a cross bill against General Greene, and oblige him to declare on oath that he was in no way interested in the suit, which he did not think it proper to do.

The report of the Committee was at length agreed to, as before stated, and a bill ordered to be brought in, which subsequently passed. By this decision, between £11,000 and £12,000 sterling will be paid out of the Treasury of the United States to the executors of General Greene. The yeas and nays, on the passing of the bill, stood, 55 to 24.]

COLLECTION OF DUTIES.

The Committee to whom was referred the bill in addition to an act, supplementary to an act providing for the collection of duties on goods imported, together with the amendments of the Senate thereto, reported, that the first amendment (intended to prevent misconception,) should be agreed to, but that the three new sections, relating to the establishment of districts for the collection of duties on goods imported by the river Mississippi and the Northern boundary of the United States, should be disagreed to, and recommended that the Secretary of the Treasury should be authorized to report a plan for the establishment of districts for the collection of duties on goods so imported by way of the Mississippi, and on the Northern boundary of the United States. The report was twice read, the House took it up, and agreed to it.

MILITARY ESTABLISHMENT, &c.

A message was received from the Senate informing the House that they had disagreed to the amendments which they had made to the bill for compensation of clerks, and insisted on their own amendment.

Also, that they insisted on their amendments to the bill providing for the Military Establishment of the United States.

On motion, the reconsideration of the amendments of the latter bill were taken up.

Mr. W. SMITH moved that the House should recede. He did not think the difference between the two Houses sufficient to risk the loss of the bill. If it were lost, the old Establishment would remain in force, and that contained the substance of the Senate's amendment.

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Military Establishment—Debts of the United States.

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Mr. BAILEY hoped the yeas and nays would be taken on the first amendment.

Mr. NICHOLAS did not believe with the gentleman from South Carolina, [Mr. W. SMITH,] that if the present bill was lost, they should be under the necessity of returning to the old Establishment. He knew it was in the power of either branch of the Government to bring down the Military Establishment to what they pleased. On this ground, he should be for making the Establishment special.

Mr. HARRISON was of the same opinion, and was determined to adhere to it.

The question was then taken by yeas and nays, on receding from their proposition of retaining only two troops of cavalry, and negatived, 51 to 25.

Mr. GILES then moved to insist upon their disagreement to the Senate's amendment, which was carried.

Mr. W. SMITH hoped the House would recede from their proposition of leaving out the Major General. He reminded the gentleman from Virginia [Mr. NICHOLAS] that, by withholding the appropriations for the Army, as the gentleman suggested, they would bring themselves into a disagreeable situation. To pass such a law as would not be agreed to in the Senate, and to refuse, rather than have the old Establishment, to appropriate altogether, would cause the Army to be disbanded. He hoped, therefore, they would not, by adhering, bring themselves into such a disagreeable dilemma.

Mr. W. LYMAN said, if they were driven into the situation mentioned by the gentleman last up, it would be the Senate who forced them into it. A judicial arrangement had been settled in that House, approved by every professional man, and he trusted they should adhere to it; and if the Senate did not choose to acquiesce, they might abide the consequence.

Mr. GALLATIN looked upon the question, whether they should have a Major General or a Brigadier General, as unimportant in itself; but, he thought, the ground upon which the gentleman from South Carolina supported the propriety of agreeing to the amendment of the Senate was somewhat new, and would have no weight with him on the occasion. The Constitution said that every two years the appropriations for the Army should cease. If, therefore, any disagreement between the Senate and that House were to end without a law, it would rest upon those who disagreed, because a less sum was appropriated than they wished to take the consequence of. We have a right, said he, to appropriate what we please; and if the Senate say—you must appropriate so much—we could refuse to do it. He did not think it was parliamentary to say what the Senate would do upon any occasion. To say the Senate would not do this, or that, was, in his opinion, a threat which might have been spared. [Mr. SMITH denied his having said so.] He had no doubt but the Senate would do their duty, and if they could not obtain as large an appropriation, and as large an Army

as they wished, they would agree to such a less one as we might consent to, as they had rather have 3,000 men than none.

Mr. GILES said, he thought differently from the gentleman last up. He objected to the amendment because it created a sinecure office for a particular person. It was not contended that the troops intended to be kept up required a Major General to command them, but that a Major General might be wanted for other purposes. When this service was to be performed, he said, a person might be appointed to do it; but, because there was a particular person fitted for the business, gentlemen seemed determined to create him an office. This would be establishing a most ruinous principle, viz: that offices might be created for persons, without necessity; and he hoped that the House would not suffer any circumstances of a temporary nature to influence them to adopt such a principle.

It had been said, the other day, that there was no weight in the argument that they were making offices for men, but he believed it was so. It was contemplated by the Constitution, that every two years the Army should cease. They were now upon a Peace Establishment—the last was a War Establishment; and if a Major General was not necessary, he hoped they should not agree to have one. There was nothing in which public bodies had erred more than in departing from general principles.

With respect to appropriations, he had no doubt but they had the power to appropriate what they thought necessary for the Army, and no more. If the Senate wished to have a larger Army, they could not oblige them to appropriate for it.

Mr. COOPER spoke of the importance of having an officer at the head of their Army attached to the Constitution of our country.

Mr. WILLIAMS said, when the bill was first brought forward, this matter was fully discussed. A number of military gentlemen gave it as their opinion that a Major General was not necessary; their opinion was convincing to him, and he could not agree to have a Major General, when a Brigadier General was sufficient.

The question for receding from this proposition of the House, and agreeing to that of the Senate, was taken by yeas and nays, and negatived, 37 to 45.

It was then agreed to insist, and a committee of conference was appointed. Subsequently the Senate receded from their first amendment respecting the cavalry, and the House agreed to retain the Major General, on condition that the act continued in force only till the 4th of March next.

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On motion of Mr. W. SMITH, the House resolved itself into a Committee of the Whole on the amendments of the Senate to the bill providing for the payment of certain debts of the United States, which, instead of selling the whole of the five million of stock to be created at six per cent. at par, authorizes the Commissioners to sell it for

what it will bring in the market, and also to sell the two million of Bank stock belonging to the United States, if more advantageous to the Government.

Mr. S. hoped they would disagree to this amendment. It embraced two ideas. The bill, assent from that House, he said, provided that the Commissioners of the Sinking Fund should not sell any part of the stock created under par. It was thought at the time the measures were introduced, that it would have been saleable at par, and if the business had been brought to a conclusion earlier in the session, it might have been disposed of upon those terms; but, from the lateness of the season, and other circumstances, it could not now probably be disposed of at that price. The Bank finding this to be the case, had written a letter to that effect to the Secretary of the Treasury, which had been sent to the Senate, and from the Senate to this House, and lay now on their table. The Senate, in consequence, by the amendment under consideration, authorized the Commissioners of the Sinking Fund to sell any part of the stock to be created, under par, so that the whole five millions might be so sold, and also to sell the two millions of Bank stock held by the United States, if it should be found to be more advantageous to the United States to do so.

He objected, he said, to that part of the amendment in particular, which gave the Commissioners the power of selling the Bank stock, because there were two laws in force which expressly hypothecated to the Bank and to the public creditors the dividends arising thereon; and he objected to the other part, because it gave the Commissioners power to sell the whole five millions under par, which might prove injurious to the public credit. He should have no objection, he said, to allow them to sell a part, two millions, for instance, under par, if it should be found absolutely necessary. [Mr. S. read the two acts which mortgaged the Bank stock.]

By these laws, he said, it appeared, as evident as words could make it, that the public faith was pledged that the Bank stock should remain as a security and pledge for these purposes. It might, indeed, be a question, if other funds of adequate value were to be substituted, whether this fund might not be taken away; but that point was not necessary to be settled at present, because the Senate did not propose to replace it with any other fund. So much in respect to the national faith; but even if that was not pledged, it was still an impolitic thing to give the Commissioners of the Sinking Fund the power to sell the Bank stock, which now produced eight per cent., and a yearly income of \$160,000. This was a very considerable sum, and he doubted not it would hereafter increase. Bank stock at present, as well as all others, was very low; it did not sell for more than 27 per cent. premium. To sell this stock, even at this price, would be a greater loss than to sell the six per cent. stock at eighteen shillings. To bring any quantity of this stock into market would also have the certain effect of reducing the price considerably. As a mere question of interest,

therefore, it was bad policy to sell the Bank stock; but he did not rest his opposition upon this, because he thought the other ground sufficiently strong, and that to pass the bill as it came from the Senate would be a direct violation of the public faith.

Mr. GALLATIN called for a division of the question. He should disagree to that part which authorized the selling of the six per cent. stock under par, as there was no worse financial regulation than that of suffering irredeemable Government stock at legal interest to be sold below par. He said they ought not to bind themselves to pay an additional interest for twenty-three years. No doubt, since the money was wanted, and must be had, it must be got on the best terms they were able to get it, but if it could not be obtained except by paying more than six per cent., the stock created ought to be redeemable at pleasure; because the present scarcity of money could not be supposed to last long, and it would be proper to have it in their power to avail themselves of any fall of interest which might in the mean time take place. He should, therefore, move for a division of the amendment, in order that the sense of the House might be taken on the parts separately.

Mr. HARPER hoped the question would be divided, and that they should disagree to that part of the Senate's amendment, directing that the six per cent. stock might be sold under par, as he had always understood that the stock, being made irredeemable for twenty-three years, would at least cause it to sell at par. If it would not do that, he thought it would do better to have the stock redeemable at pleasure.

Mr. SWANWICK said, that this was one of the most extraordinary questions which ever came before that House. Nor could it fail to astonish their constituents, when they heard and understood that the finances of the United States, which had always been represented as in the most flourishing circumstances, were in such a state as to oblige them to borrow money at a higher interest than six per cent., and that whilst they were boasting of their prosperity and the flourishing state of the Union, a motion was made to strike out a clause in a bill which prohibited the selling of six per cent. stock at a less price than par. Mr. S. said, they had been passing a number of bills this session, all empowering the borrowing of money at six per cent., yet they were now about to authorize the Commissioners of the Sinking Fund to sell Government six per cent. stock under par, and for any price they could get. We might tell our constituents, said he, that we were paying six per cent. interest, while in fact we may be paying twenty per cent. Was there ever so ruinous a system proposed to our enlightened country? Whether the stock was redeemable or irredeemable, made no difference as to the principle. He, however, should never consent that a stock irredeemable for twenty-three years, and bearing six per cent. interest, should be sold under par. What was the difference betwixt selling six per cent. stock under par, and paying a higher

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interest than six per cent. for money? There was really no difference. We shall, said he, deceive ourselves by a financial system that would ruin any country? It astonished him how it could enter into the mind of any man. He asked what would be the alarm of the creditors of the public, when they heard that six per cent. stock was to be created by the Government and sold under par? In England, whose example, he said, they seemed to be too closely following in many things, when money was wanted they did not create a stock, and authorize it to be sold under par, but resorted to a public competition for the loan, and proposals were received from any moneyed men who chose to come forward. And, even in the present year, Mr. Pitt had borrowed money at four and a half per cent., whilst the United States were about to pay nearly double, though that nation was at war; and this in a state of profound peace. If, instead of creating a stock, and authorizing it to be sold in the way proposed, a fair competition had been opened for the loan, every individual would have had an equal chance, and money would have been got on the best terms. Individuals would speculate upon the probability of a continuance of peace, and merchants would make propositions upon what terms they would take it. Though the Bank wanted money, he supposed they would not insist upon being paid down at once, and selling the stock on credit, payable by instalments, they might sell it at least at par. But what would be the operation of the bill without the provision to prevent stock being sold under par? Why, the bank or individuals might combine to take the whole stock to themselves at any rate they could get the Commissioners of the Sinking Fund to agree to. He hoped the Committee would never agree to such a proposition.

Mr. S. wished the ensuing Congress would come together with other views than those of money-borrowing. Almost all their acts this session had ended with a clause for borrowing money. If their present embarrassment produced that effect, it would be a salutary one. He did not know how the Committee of Ways and Means had conducted their operations, but when he saw these things he was astonished. When this measure was first brought forward, the Chairman of the Committee of Ways and Means said the Bank would take the stock at par, and that if any thing more was got for it, it was to go to the credit of the United States; but now the scale was turned, and nothing but a sale even below par was contemplated.

The selling of this stock in the manner proposed, had, to him, an alarming appearance, and he believed, when known in Europe, it would be scarcely credited. He thought it would give a shock to public credit; for if they were to create stock for five millions of dollars, and sell it at any price it would fetch, they might at any time coin stock, and sell it at their pleasure, and throw such quantities into the market as to make a mere paper currency of the business, liable to depreciate to an incalculable extent.

Upon the whole, he was glad the question was

divided, so as to enable gentlemen to vote separately on the merits of each part.

He would make a few observations respecting Bank stock. What a singular appearance! To own one-fifth part of the capital of the Bank of the United States without being able to pay our debts to them. [The Chairman reminded Mr. S. that he was not in order, informing him that the Bank stock was not then under consideration.] Mr. S. said, he should then reserve his observations on that head until that part of the subject came before them.

Mr. S. concluded his observations by saying that he thought the Bank ought not to require payment in a moment; they could not, in their dealings with merchants, say so to them by requiring the whole commercial body in a moment to extinguish their engagements, nor ought they to the public. This six per cent. stock could be sold at par, he was pretty sure, by giving a little time; the Bank ought to consent to give this. They had been accustomed to borrow money in Europe, but now they were to borrow it in the United States. He thought the business might yet be done in London, and it was somewhat unfortunate that it had not been determined on sooner. But as there was at present an appearance of peace in Europe, the stock would certainly increase in value, if that event should take place.

Mr. NICHOLAS said, he did not wish to take up much time of the Committee. At present, the law made the Debt redeemable till the year 1819. The amendment proposed to strike out the provision which was to prevent the stock being sold under par. It was extraordinary that they should sell this stock under par, though it bore an interest of six per cent.

Mr. N. went into a calculation to prove how much the United States would lose by the depreciation of the stock, supposing it to sell at different prices, and said they had better paid ten per cent., and have the Debt redeemable at pleasure, than dispose of it in the way proposed, as in two or three years the debts might perhaps be paid off. He was for striking out the clause which proposed to sell the six per cent. stock under par, as to sell it in that way would be procuring money in the dearest possible mode. It was their business, he said, to get money on the best terms. It was his opinion the Bank should be paid off, and at the present time; nor did he lament much the embarrassment into which they were driven to pay their debts. He thought they stood in need of some warning of this sort, in order to check their hand in borrowing; and it was only by such experiments that they should be persuaded that it was necessary to meet all their expenses by finding proper resources. Situated as they were, he should think it best to sell the Bank stock first, as likely to go at the best price. By doing this, no public engagement would be broken, as had been insinuated by the gentleman from South Carolina, [Mr. W. SMITH.] If the sale of the Bank stock was not sufficient, he should consent that the Commissioners of the Sinking Fund should sell as much of the six per cent. stock

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as would supply the Bank, at the best price they could get.

Mr. S. SMITH said, he felt for the peculiarity of their situation. He would not say that he was prepared to go into the subject at present. How was the Debt, he asked, accumulated? It was first by anticipations, on account of the credit given to merchants of four, six, nine, and twelve months, which the Treasury could not wait for. Government was then obliged to borrow from those who would lend the money. The Bank of the United States lent Government the money in anticipations of the revenue; and the revenue, but for unforeseen circumstances, would have been equal to the expenses of Government; but the Western insurrection had cost the United States 1,200,000 dollars, and there was the Peace with Algiers, of 1,000,000 dollars. This money was also borrowed by the Bank. It could not have been borrowed in Europe. Would the Bank of Pennsylvania have lent it? Would the Bank he had assisted the establishment of at Baltimore have lent it? He believed not. There was also an instalment of the Dutch Debt. These several sums were intended to be met by a new Loan; but the revolution which had taken place in Holland prevented a new Loan from being negotiated in Europe. What then was to be done? The Bank of the United States stood pledged for 6,200,000 dollars for Government. Should we, said he, keep this money from them? He hoped not. He thought the Bank had been of great utility to Government, and it ought not to be abused. He did not wish to do anything to injure the Bank; for if it was injured, others would feel the injury also.

The Bank, he said, had placed themselves in such a situation as it was unwise in them to do. Will you then not assist them, because you must pay eight per cent for money? Government owed the Bank the money, and they had desired payment. Could we then, said he, or could any merchant of credit who had a note due, say to the Bank, We cannot pay you at present, because we must pay eight or ten per cent. for money? If a merchant were to put off payment on such ground, he would immediately lose his credit, and get no more discounts at the Bank. How, said Mr. S., could it be expected to borrow money at eight per cent, when two or three per cent. per month was paid for discounting the best bonds of merchants? Yet we say we will not pay eight per cent.

Mr. S. said, he thought proper to make these observations, though he was not for the amendment of the Senate, nor could he agree with the gentleman from Pennsylvania, [Mr. SWANWICK.] That gentleman thought to sell stock under par would greatly alarm our creditors. He could see no ground for alarm to them at all in this business; but he thought the gentleman's doctrine was calculated to injure the Bank. It went to this: It is true we owe you money, but we will sell nothing at a loss to pay you. You may put yourselves to what inconveniences you please, but we can suffer none. He did not think this right, though he did not approve of the amendment of the Senat.

Mr. SWANWICK said, the gentleman last up had spoken as if he had felt less desire to pay the Bank of the United States—less anxious to discharge our public engagements—less anxious to do justice—than that gentleman. He wished to know how he could impute such sentiments to him from what he had said. The argument was simply whether they should strike out the clause which confined the stock from being sold under par. There was nothing like a refusal to pay: the question was, which was the best way of paying?

There were some of the gentleman's observations, for the sake of public information, he thought it necessary to notice. How could it be expected, said he, that Government could borrow money at eight per cent, when merchants paid two or three per cent. per month for discounting good bonds or notes? Did not that gentleman know the difference betwixt public stock bearing an interest of six per cent. and merchants' bonds or notes? The actual market price of the two would show that difference. There was always money in the market to buy stocks, when there was frequently little or none to discount bonds or notes. Stock was purchased to remit to Europe on speculation. The dry goods we import are often paid for in this way.

The gentleman from South Carolina [Mr. W. SMITH] had said the stock would have been disposed of at par, had it been brought forward earlier in the session—that dry-good merchants would have bought in for remittances. He doubted not the Bank might now, by giving a credit of two, four, and six months, sell the stock for ten per cent. profit, above what it gave for it, if purchased under par. But if the United States were to go on borrowing from time to time, and then sell their stock at any rate to pay the Bank, individuals might make 10 or 20 per cent. profit upon such loans, which would open a fine trade for them, but a very ruinous one for the public. They would have nothing to do but to lend Government again, and at a proper time come forward and demand the money. New emissions of stock must then be made and sold in the usual way, and Government revolve in this continual circle.

When the gentleman from Maryland [Mr. S. SMITH] stated the cause of the Debt, he was correct. They only differed in this: Instead of borrowing, he was in favor of laying taxes immediately after a debt was incurred to pay it. For, said he, what will be the consequence of the present practice? They were told the Bank was pledged for 6,200,000 dollars for the United States, and it might go on to 20,000,000. When you pay these 5,000,000, you do not extinguish any part of the Debt. No, you will probably increase it 1,000,000. Instead of being sold for 17s. 6d. in the pound, as had been supposed, it might sell for 20 per cent. below par. Where was this market to be made? Why, the Bank or individuals might take the whole in one line, either directly or indirectly. One of the worst charges brought against Mr. Pitt, was, that he had made a private Loan without inviting public competition. He would ask if this six per cent. was to be offered for sale

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at public auction? If they were, every man who had money might become a bidder at the vendue; or, if the Bank would give a small latitude of time in the payment, it would make an immense difference in the price.

The gentleman from Maryland said, the Bank did only the same with Government that it did with merchants when their notes were due. But did not that gentleman know how one note was replaced by another? The Bank thus accommodates the merchants; but to Government they say, pay us the debt, at whatever loss you do it, immediately. They have never said so to the whole body of merchants collectively, which alone could resemble the case in point. And while so much was said about the service which the Bank had done to the United States, had the Government done nothing for the Bank? Was the act of charter of no service to it? Were not fortunes made by it? Did they derive no advantage from the deposits made, and from the circulation given to their paper by the Government? Did the Bank lend the money for the Algerine peace in cash, or was it not in stock, by which the public lost ten per cent. on the capital? Such repeated losses, he said, would be like the constant dropping of water upon a stone—would wear it out at last.

He was sorry to differ in opinion with the gentleman from Maryland, but they never differed more than upon the present question, when the gentleman supposed public credit would not suffer by this operation. He would ask the gentleman if he had bought stock last night at 17s. 6d. in the pound, and five millions of new stock was unexpectedly to be created to-day, and sold, whether it would not alarm him, as likely to diminish the current value?

Where, he asked, besides, were the new funds for public creditors to rely on? The Debt was increasing on all sides, but the revenue stood still. He was neither for giving a law to the bank, nor for receiving one from it. He was for paying them, but in such a mode as was calculated to do it with sufficient promptness, and without so great loss to the public.

Mr. KITTERA said they were all agreed, and therefore he could see no ground for debate.

Mr. GALLATIN said, that though they seemed to be agreed in their disagreement to the amendment of the Senate, they appeared to have different ends in view. They owed the Bank of the United States a sum of money, which they had expected the stock agreed to be created would discharge; but they were now informed it would not pay the whole, as the stock would not sell at par. The Senate, therefore, proposed that the stock should be sold for the best price which could be got for it. The gentleman from Maryland [Mr. S. SMITH] agreed that the Debt must be paid, yet disagreed with the Senate, and seemed to suppose that the Bank would be contented to receive two-and-a-half millions at present.

Mr. G. said, he had all along wished to pay the Bank, if they demanded payment; and, in order to know to a certainty, (for they had then no official paper before them), he had brought forward

a resolution to make an inquiry of the Bank whether they required payment of the whole five millions. In answer to which inquiry, the Directors had declared they must be paid, and had requested that the whole debt might be extinguished. It must be observed, however, that, in fact, it was not to pay the Debt of the Bank that they wanted money, but to pay the expenses of Government; for the probable receipts of the present year were already appropriated to pay the Bank. By this bill, it was proposed that the Commissioners of the Sinking Fund should borrow money to discharge that Debt, so as to relieve the current revenues, that they might be applied to pay the current expenses of Government. And, however painful it was to give more than six per cent. for money, they must do it, if it could not be got for less, in order to satisfy the demands of their creditor.

Mr. G. then asked for the reading of the letter from the Bank. It was read.

At this point, the Committee rose, and had leave to sit again.

Mr. TRACY, from the Committee of Claims, reported a bill to indemnify the estate of the late Major General Greene for a certain bond given in the late war; which was twice read and ordered to be committed to a Committee of the Whole to-morrow. Adjourned.

TUESDAY, May 24.

Mr. NICHOLAS, from the committee appointed to confer with a committee of the Senate on the subject of their amendments to the bill from the Senate for the relief of persons imprisoned for debt, reported that it was the opinion of the joint committee that the House of Representatives should recede from their amendments, and that the bill should pass with certain other amendments.

A message was received from the Senate informing the House that they had receded from their amendments to the bill respecting the erection of new ports of entry, &c.; that they had agreed to the bill for the relief and protection of American seamen; and that they had resolved that the bill authorizing the PRESIDENT to cause to be surveyed the post road from Portland in Maine, to Savannah in Georgia, do not pass. The Senate insist on their disagreement to the amendment of this House to the bill sent from the Senate, entitled "An act to regulate the compensation of clerks," and to which this House has insisted. The Senate also agree to the conference desired by this House on the subject-matter of the amendments depending between the two Houses to the bill, entitled "An act to ascertain and fix the Military Establishment of the United States," and have appointed managers at the same on their part.

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The order of the day was then entered upon on the bill providing for certain debts of the United States, and the House formed itself into a Committee of the Whole on the business.

Mr. W. SMITH proposed to strike out the Se-

nate's amendment, authorizing the Commissioners of the Sinking Fund to sell the Bank stock and to introduce the sale of six per cent. stock under par to two millions.

This amendment was objected to as not in order, and a pretty long debate took place, chiefly on a point of order, which was at length decided by the SPEAKER, in his place, pointing out a mode of procedure, which would give an opportunity for the sense of the Committee to be fairly taken, which was by striking out certain words, so as to admit of any words being added which might be moved.

Mr. GALLATIN said, the amendment proposed by the Senate authorized the Commissioners of the Sinking Fund to sell the Bank stock belonging to the United States. He had no objection to give this power to the Commissioners of the Sinking Fund, nor did he think it would be attended with any violation of public faith. There were two laws which the gentleman from South Carolina [Mr. W. SMITH] had supposed would be violated—the first of these was the act which had appropriated the moneys received for dividend on the Bank stock, the property of the United States, to the payment of interest on certain loans obtained from the Bank. To remove any objection on that head it would be sufficient to make a new appropriation, to wit: of the funds relieved by the payment of that debt (which it was proposed to discharge with the proceeds of a sale of the Bank shares) to the payment of the interest of the loans alluded to, and he meant to move an amendment to that purpose. Indeed, it must strike every member of the Committee that, as they were creating no new debt, there could be no increase of interest. But another objection was made, viz.: that by the act establishing the Sinking Fund, they had pledged not only the amount of certain funds, but they had also pledged the funds themselves in such a manner as not to have a power to change those funds and substitute others in their place. In order to show where this doctrine would lead, he observed that not only Bank dividends, but the proceeds of the impost and excise duties were made, by that act, component parts of the Sinking Fund. If, said he, we cannot substitute another fund of equal amount to the dividends of Bank stock, neither can we substitute other funds instead of the revenue accruing from impost and excise, and, therefore, we cannot repeal, modify, or alter in the least any of the existing duties on imported merchandise or distilled spirits. It goes to say these duties are out of our power, so that we can neither diminish nor increase them; and the moment any alteration should be proposed in any of those acts, the gentleman from South Carolina would say, "This is a violation of public faith, for these duties are pledged to certain purposes." He believed no member of the House could seriously say that the Legislature who passed this law had ever any such intention as this. The creditors of the public would certainly have no reason to complain if funds to the same amount were given; and, in this case, there was in fact only a

change of form, for the amount of debt was not changed.

The policy of selling Bank stock was objected to by some gentlemen, others approved of it. Whether it was sold or not, would not depend upon them, but upon the Commissioners of the Sinking Fund, who were to sell it only if they thought it more advantageous to the United States than to sell the six per cent. stock. And he thought there could be no risk in leaving this power with those gentlemen.

But whether it was desirable to keep their shares in the Bank of the United States was another question. If gentlemen thought it would be advantageous to keep them, he should be glad if they would inform the Committee in what those advantages consisted, and then they should be enabled to judge for themselves. On a former occasion, when the question was before them, he had given it as his opinion that no good could arise to Government from the connexion. He wished it might be recollected that he did not say a single syllable against the Bank, but acknowledged that they had done service to the Government by lending them money upon occasions of emergency. Until he was assured that they demanded payment of the whole five millions, it was true he was against funding that sum, because he knew it was the worst possible time to borrow money; but now they have said they must have it, he was willing and desirous it should be paid them, notwithstanding that he could not help observing at that time that he did not think it was perfectly good treatment to come forward at such a time and demand, not a part, but the whole of the money advanced from time to time in anticipation of the revenues of the United States. He thought, in doing this, they showed less indulgence to Government than they did to their customers in general, who obtained from time to time what answered to our loans; and he believed the Bank was not in the habit of withdrawing at once the whole amount of the discounts they had been used to make for any of their good customers. To Government they had not shown the same kind treatment—they had demanded the whole of their debt. He was told now they had changed their mind, and would take less than the whole. The letter which had been read to them did not, however, speak of a part but the whole. He was convinced the Bank wanted money, and he was willing to pay them what they wanted: but since they were asking at once the whole amount of what was due them, for his own part he saw no advantage Government had from being a stockholder of the Bank.

As for the future, Mr. G. said, if the Bank had money to lend, they would lend it to Government when they could spare it, but, when scarce, they would ask for it back. They could not have requested payment at a worse time than now, although Government were a stockholder, and therefore, they would lose nothing by selling their shares.

Mr. HARPER was in hopes this discussion would have been gone through without any censure be-

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ing thrown upon the institution of the Bank, or philippic against its Directors; but this had been done, and, believing the charges unfounded and undeserved, he would make a few observations upon them; but first he would proceed to consider the amendment itself.

The question was in which way they should pay the Bank? There were three modes of paying the debts: 1. To sell their property in the Bank; 2. To sell the six per cent. stock under par; 3. To create a stock which would sell at par, but which would bear a higher interest than six per cent. He would not stop to consider the comparative merits of these modes, he believed they depended on nice calculation. They had to decide betwixt two principles, viz: whether they would sell their Bank stock or the six per cent. stock to be created? It had been said the conduct of the Bank had been such as to warrant their breaking the connexion between that institution and Government.

What, he asked, had been this bad conduct of the Bank? Was it because it had lent two-thirds of its capital, and now requested to be paid? Was it because the Bank refused to lend its whole funds at six per cent.? Or was it because the Bank was not able to make advances beyond two-thirds of its capital? He would ask if an individual had lent two-thirds of his capital and advances had been increased from time to time, and at length pressed upon his debtor for a part of his debt, whether this conduct would have been blameable?

Mr. GALLATIN said, he did not blame the Bank for asking for a part, but for insisting upon the whole of the debt.

Mr. HARPER observed, it was said that the Bank called upon Government for the whole amount, because they were willing to receive five millions in part of \$6,200,000. In what way do they ask this? Do they say, pay us the money? No; they say they will be contented if two millions were paid immediately. This would relieve their present wants; and, for the other three millions, they will sell it at par, or, if sold for more, they will put it to the credit of the United States. Was this conduct to be blamed, or ought it to give offence? It was said, that when they had money to spare, when they had no use for it, they lent it to the United States. But he believed this was not true; he believed the Bank had never refused to lend Government money till they had lent them six-tenths of their whole capital, to its great loss and inconvenience. He thought the Bank was a very valuable connexion for Government, and they ought to retain it.

Mr. H. said, he did not know what had passed betwixt the Directors of the Bank and the Committee of Inquiry; but he believed the Directors did not express themselves in those peremptory terms which had been made use of by the gentleman from Pennsylvania, [Mr. GALLATIN.] He believed their language was, "If you do not pay us we shall suffer. We do not demand the money; we must, however, have a part or we shall be much injured; but, if you wish us to give you

assistance in future you must give us a considerable part. We do not wish, however, that the Government should be embarrassed on our account." And, if this was their language, they were not certainly to blame.

Whether the debt should be paid by one kind of stock or another, he would leave to be discussed by other gentlemen. He believed his colleague's plan was best. He thought it better to sell stock under par than to pay a larger interest than six per cent.

Mr. CHRISTIE called for the reading of the answer of the Bank Directors to the inquiry made of them by a committee from that House, respecting certain moneys due to the Bank of the United States. He called for the reading of this paper, as he believed it would completely answer every thing which had been said by the gentleman last up. With respect to the amendment of the Senate, he should certainly vote against it. [The paper was read. See *ante*, page 1295.] And Mr. C. declared it was an answer to all the arguments used by the gentleman just sat down.

Mr. W. LYMAN believed that the Bank of the United States, considered either as a body politic or as individuals, had acted perfectly fair and patriotic. He believed they consulted their own interest, as all persons in business would do; but, notwithstanding this opinion of the Bank, he should be for selling the shares which Government held in it, because he thought their situation required it.

They had been told, that if they sold these shares the public faith would be violated; but he believed they were not so little informed as not to know what they had a right to pay their creditors by what means they pleased. If their creditors got their money, no inquiry would be made from whence it came. But they were told this fund was pledged solely for a particular purpose; but, he said, since that time the resources of the United States were much increased. It was, indeed, also true that the expenses of Government were increased, but the whole of our resources were pledged to our public creditors. The expenses of Government were only defrayed out of them, and the residue went to pay the interest and principal of the Public Debt; and, as the expenses of Government increased, new resources must be found. It was the spirit, and not the letter of the law, Mr. L. said, which was to be respected. Did the public creditors want more security than the resources of the United States afforded? He believed they were perfectly satisfied.

If the six per cent. stock could be sold at par, then the Bank stock would not be sold; but if that stock will not bring par price, the Commissioners of the Sinking Fund will be at liberty to sell the Bank stock to answer the present demand made by the Bank upon Government. When this floating debt shall have been paid the United States would be liberated from it. As to the idea of violating public faith, if they referred to the Report of the Secretary of the Treasury, it would be found he admitted the right of divert-

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ing funds if necessity required it. He had no doubt about the principle, and was glad to see gentlemen disposed to resort to this resource.

Mr. SWANWICK said, a great deal of extraneous matter was introduced into the present debate about the Bank. The simple idea was that they had a debt to pay, and they wished to pay it in the best way. No one would doubt they ought to prefer gain to loss. It was an embarrassing circumstance that the Government appeared debtor and creditor at the same time; for, if they were borrowing money of the Bank, they might be told that it was against their interest to have much of the money of the Bank at six per cent., as more could be made of it by discounting to merchants, and, therefore, their dividends would be larger. This system of being debtor and creditor at the same time involved difficulties which could only be understood by men who paid particular attention to the subject; and, except gentlemen on the Committee of Ways and Means, he believed few men in that House were completely acquainted with the state of the public finances. For what gentleman on that floor, he asked, expected to be called upon this session to pay \$5,000,000, and that under par; and, indeed, when the bill first passed that House, there was no idea of that kind entertained.

It was said to be a violation of public faith to sell the Bank stock at all, and the gentleman from South Carolina [Mr. W. SMITH] complained that there was no restriction laid upon the Commissioners of the Sinking Fund. He believed it was no violation of public faith to sell the Bank stock; if it were, he believed the Senate, who might be supposed to have as nice a sense of public faith as that gentleman, would not have proposed such a measure; yet they had proposed it, and he thought it was honorable to them that they had done so.

With respect to the operation the selling of the Bank stock would have to prevent future accommodation being given to Government by the Bank, he thought they had no reason to believe there would be any difference in that respect. He was of opinion they would not object to lending the Government money as usual; but, if they should refuse to lend Government money as heretofore he should congratulate the United States upon the occasion; because (as he had frequently observed) the too great facility in borrowing money was the ruin of all Governments, and because a Government was never so truly respectable as when its revenues were fully equal to its demands. He himself was not one of the Committee of Ways and Means; if he had been upon that committee he might have suggested some ideas that would have been of service. It was in that committee that all the resources of the country originated. Nothing had been done this session for the revenue. They had brought forward, it was true, a system of taxation on stamps, but it had been suffered to sleep in oblivion. The important business which they had before them relative to foreign Treaties was perhaps a sufficient apology in part for this; but he hoped, du-

ring the recess, gentlemen would consider upon what was best to be done on the subject of taxation, as they found, by the report of the Secretary of the Treasury, that our expenses this year would probably exceed a million and a half our receipts.

Mr. W. SMITH said, as far as the remarks of the gentleman last up related to the advantages of selling Bank stock over six per cent. stock, he should not for the present notice them, but, as they related to public credit, they were entitled to some notice. He did not observe that any gentleman had shown that the public faith was not pledged. [He again referred to the laws which pledged it.] The gentleman from Pennsylvania [Mr. GALLATIN] endeavored to get over the difficulty by saying it was the amount of the funds, and not the funds themselves, which were appropriated; but, if he referred to the words of the act, he would find that the funds themselves were specifically pledged to the payment of the Bank, and the redemption of the Public Debt. What, then, will be the consequence, said Mr. S.? You take away the mortgage of the Bank stock, and give the creditors nothing in return. He would ask that gentleman if he had a valuable specific security from another person, and that person were to take that pledge for another purpose, and say to him, though I have taken away the fund that was pledged to you, still my estate in general will be good security for your debt, whether he would be satisfied? He certainly would not. If the Bank stock were taken away the creditor would have to rely only upon the surplus of the revenue after all other prior appropriations were satisfied; and if there should be no surplus, then there was nothing substituted. Was not this a violation of the pledged faith of the nation?

The dividends of the Bank stock, said Mr. S., were expressly and solemnly vested in the Commissioners of the Sinking Fund for the discharge of the Public Debt, and the public faith pledged that they should so remain till the whole debt was redeemed. How did the gentleman get over this? He said he would provide as much more out of the unappropriated revenues arising from imports, but there might be none. Besides, Mr. S. said, Government had pledged specifically the dividends of the Bank stock, and it was a violation of public faith to withdraw a specific pledge for an uncertain and precarious fund. He conceived, therefore, no satisfactory answer had been given to his objections, and that unless gentlemen came forward and produced a specific substitute of equal value, these dividends could not be taken away without violating the public faith.

Mr. S. had hoped the gentleman from Pennsylvania [Mr. GALLATIN] would not have charged the Bank of the United States with versatility, when he himself had so frequently changed his opinion on this subject. That gentleman was opposed to paying off the five millions required by the Bank, and spoke two hours to show the propriety of paying only \$1,200,000, upon the ground that the Bank ought to continue their anticipations of the \$3,800,000. He immediately after-

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wards came forward with a motion to appoint a committee to inquire whether the Bank demanded the money, because, if they demanded it, he would have them paid the whole. He was now opposing the sale of the stock under par, if necessary, which the Bank required. Yet though he was himself so inconsistent, he was ready to blame the Bank for the same kind of conduct.

The Bank, Mr. S. said, had always advanced money liberally to Government, whenever it was wanted. Five millions were now due. They now say to Government, "We cannot go on any further, except you pay a part of what you owe us; we wish to have the whole, but a part is indispensably necessary." To raise a part of this money immediately, it had been proposed to sell two millions of the six per cent. stock under par, if necessary; this the gentleman was opposed to, and, as a substitute, the Bank stock which Government held, was proposed to be sold at any price; among other reasons, to dissolve the connexion between the Bank and the United States. He did not expect objections to the connexion between the Government and the Bank of the United States from a gentleman who thought so well of and had patronised the connexion between the State of Pennsylvania and the Bank of that State. He could not see any difference betwixt the two cases. It was well known that the State of Pennsylvania held considerable property in the State Bank. The funds of that State were in a very flourishing condition, and it was thought, by some, to be partly owing to that circumstance. But, gentlemen say, the Bank of the United States had behaved improperly, and, therefore, they would have no further connexion with it. It had been for many years fashionable to abuse the Bank. He himself had formerly held some shares in it; he had been a Director; but he had long ago sold his shares, and resigned his seat as a Director, and would have no more to do with the institution, because it was deemed by some so heinous a crime; but, when he knew that the Bank had rendered useful and great services to the United States, at a crisis when, but for the timely assistance, the prompt aid of the Bank, the Government might have been prostrated, he could not consistently with his duty, and with his feelings of gratitude, complain, when they informed Government they could advance no more until a part at least of the debt was reimbursed.

When the gentleman from Pennsylvania said that the Bank had demanded the money in such terms as, "We will be paid, we must be paid," he put into the mouths of the Directors a disrespectful language, with which they had never insulted the Government. They had done no more than barely state their situation. He saw no use in thus perverting their language, unless it were designed to prejudice the House against them. He wished gentlemen would review the conduct of this institution towards Government. What was their conduct when an insurrection had broken out in the country, and when the Government had not the means of suppressing it? Did not the Bank enable Government to raise a force by which

the insurrection was quelled without bloodshed? He knew the gentleman from Pennsylvania [Mr. GALLATIN] thought differently; that gentleman had said the Army was not necessary on that occasion; but Congress had approved of the measure, and, moreover, had authorized the PRESIDENT to keep an army stationed in the country. This was no proof that the PRESIDENT was not deemed justifiable in having marched the Army, and he could not have done it without the aid of the Bank.

What was the conduct of the Bank with respect to the Algerine negotiation? They lent \$800,000 towards the million loan. Indeed, they had gone on lending to Government, until they had injured themselves by it; they had done it to their wrong. They had been obliged by their excessive advances to Government, to abridge their discounts, which had dissatisfied their best customers, and raised them up many enemies. He, therefore, thought them perfectly justifiable in requiring payment of what was due to them, and that any animadversion upon their conduct was altogether unjustifiable.

Mr. S. concluded with observing, that no satisfactory answer had been given to his argument of the public faith being violated, and that he would much rather both the Bank and the Government should suffer greater inconvenience than that a violation of their plighted faith should ever take place. The gentleman from Pennsylvania seemed to shelter himself under the conduct of the Senate, but he must own that this proposition of theirs had somewhat diminished his confidence in that branch of the Government.

Mr. VENABLE hoped the amendment would be retained, as it would give the Commissioners of the Sinking Fund a greater latitude than they otherwise would have, as they had disagreed to the other amendments of the Senate. As to the conduct of the Bank, he thought the treatment they had shown to Government was not that kind of treatment which they had shown other customers, and any man being so treated would break his connexion with it; for he was told that bankers never discontinued the whole of their discounts to merchants; and he believed that a treatment like that which had been used with respect to Government, might destroy the most respectable merchant in Philadelphia.

When inquiry was made whether the Bank required the whole of the five millions, or whether a part would answer their present purpose, they answered they must have the whole; but now gentlemen say that two and a half millions will do for their immediate purpose. This seemed as if they were conscious of having done wrong in demanding the whole. He believed if they were to pay the Bank five millions to-day, they would lend Government half of it to-morrow. It was their business to lend money. Why did gentlemen tell them that the Bank was always doing Government favors? The United States lost \$90,000 upon the \$800,000 which they had lent them on account of the Algerine peace, and in paying them in six per cent. stock under par they

might lose as much more. He hoped the Bank stock would be sold.

Mr. S. SMITH hoped the question would be taken on the amendment of the Senate. If he understood that amendment, it went to give unlimited power to the Commissioners of the Sinking Fund to sell the Bank Stock, whilst they were prohibited from selling the six per cent stock under par. Some gentlemen, indeed, seemed willing to sell it at any price. Gentlemen said any other bank would lend Government money; he believed this would be found an error. He knew several banks whose constitution forbade the lending of their money to Government; and others, he believed, would refuse on other ground. It was not a very pleasant circumstance to a bank to have their names brought up in that House, as being distressed for want of money. What did the Bank of the United States ask? They asked the payment of money which was due. But gentlemen had said merchants could replace notes when due, by other notes. They did not seem to understand this business. If he, as a merchant, had a note due, he could not pay it by another note. This was an unfair calculation. If the credit of a merchant was bad indeed, a bank might perhaps lend him a part of the money, from a wish to take him out of the bank in the best manner they could. By their large advances to Government the Bank had been obliged to strike off one-third of their customers, who had been obliged to go to the brokers and pay three per cent for discounts.

Gentlemen had said that the Bank had demanded the whole sum of five millions. They had said, it was true, they would be glad to have it, that they might accommodate their customers. Whence, he asked, was the profit of banks derived? From their credit, from the deposits made with them, which enabled them to discount largely and to make large dividends. But he, as a merchant, finding the Bank pinched for money, and that he could not get well served with discounts, took his deposits away. And where would he then go? To the Bank of Pennsylvania. He did not mean to say that this was the wish of gentlemen from Pennsylvania, but if deposits were taken from this Bank, they would go to that Bank or the Bank of North America. If this were not the case, the Bank of the United States would divide twelve, instead of eight per cent.

He had said so much from his knowledge of the direction of banks. He believed, if they had said to the Bank that they would pay two millions at present, and desired the rest to have remained, they would have taken it. He hoped they should not sell the Bank stock, but sell two millions of the six per cent stock at the best price which could be got for it.

Mr. SITGREAVES said, he had heard for the first time, to-day, that it was ill usage for a creditor to ask for his money. There was no doubt about the money's being due, and all seemed inclined to pay it; the only difficulty was in what way it should be paid. One of the methods proposed was, to sell the Bank stock. He was not satisfied that it would be for their interest to do this, if they

were at liberty to do it. He believed, in that case, he should be in favor of selling the six per cent stock; but the most important objection was (as had been stated by the gentleman from South Carolina, Mr. W. SMITH) that these funds were pledged by law for a particular purpose. He did not rise to reply to the observations of his colleague, as they had been completely answered by the gentleman from South Carolina, but to give it as his opinion that the dividends arising from the Bank stock were expressly appropriated, and could not be diverted on any account.

Mr. GALLATIN did not intend to have troubled the Committee again, but he found it necessary to notice some observations which had been made. He meant not to run over all the arguments which had been used; he would only advert to the question whether, setting aside the policy of the measure, they had a right to sell the Bank stock or not? He would not go to the report of the Secretary of the Treasury for the construction of an act, but recur to the act itself. He read the act, and adverting to that clause which pledged the faith of the United States "that the moneys or funds therein enumerated shall inviolably remain appropriated," &c., he insisted that the meaning of the act was to pledge a certain amount of money, and not a certain fund. It was not said that the whole fund should be appropriated to such a purpose, but so much only as was necessary to discharge such and such debts. It was, therefore, the money arising from such a source and not the thing itself which was meant. He did not believe it was the intention of the Legislature to mortgage the funds; it was meant that the money arising from such a source, to such an amount, should be appropriated for such a purpose; and that if one sum was taken away, another must be provided. He therefore believed it was fully in their power to appropriate the Bank stock to whatever purpose they pleased. And when they did it, it would become their duty to appropriate a sum equal to the amount of the dividend which arose from the Bank stock, to the purpose for which it was heretofore appropriated.

It was not form, but substance, to which they were to attend. Their contract with the creditors was, that the money was to be paid; and so long as they were paid they would have no reason to complain. In fact, there was no real want of the appropriation, except for the payment of the interest of the loan; yet, for fear of any mistake on the subject, he had no objection to include both. And if public faith was not violated by the sale of Bank stock, he saw no reason which ought to prevent them from selling it.

One of the gentlemen from South Carolina [Mr. SMITH] seemed to think there was an advantage to Government in their being stockholders, and had charged him, Mr. G., with inconsistency. As to the conduct of the Bank, it was literally as he had reported it; nor had he been inconsistent with himself. In the first place, they had a bill to fund five millions. He objected to it, because the Bank had not then demanded that sum. When he was accused of a breach of faith, in not paying that

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money, he brought forward a resolution of inquiry, as he had before stated. In answer to this the Bank had passed the resolution now on their table, asking for the whole of the money, and he then had withdrawn his opposition. The bill had accordingly passed this House. To say that the Bank had required immediate payment for the whole, was not matter of conversation. It was officially communicated. He wished to know, when we asked our creditor whether he would continue a part of his loans, and the answer was that he requested the whole debt to be extinguished, whether that was not a positive answer? In giving this answer they consulted their own interest, and that alone. Mr. G. said he had already been blamed for speaking his sentiments on this occasion, and he might be blamed again. What did the gentleman from South Carolina [Mr. SMITH] mean when he said he did not expect to hear the Bank blamed for loaning Government money for the purpose of suppressing the insurrection? He did not blame them for anything except for refusing to continue a part of the anticipations on loan, when they were conscious the United States had a right to their indulgence, from the advantages they drew from Government, and from the temporary embarrassments in which they were thrown by the sudden and unexpected demand of the whole. It seemed he was not mistaken, for, though not officially, it now appeared, from gentlemen who pretended to know the wishes of the Bank, that they were willing to receive a part only. He wished they had done this at first. It was, however, in conformity to the answer received from them that the bill was now framed. If they had since varied their determination, no one but themselves were to be charged with inconsistency.

Mr. G. added, that according to the ideas he had mentioned, he would move an amendment to the amendment of the Senate, in these words:

"And such of the revenues of the United States heretofore appropriated for the payment of interest on such debts (as shall be paid with the moneys proceeding from the sale of Bank stock) shall be, and the same is hereby, pledged and appropriated towards paying the interest and the instalments of the principal which shall hereafter become due on the loan of two millions of dollars obtained from the Bank of the United States, for the purpose of paying the shares of Bank stock belonging to the United States, and directed by this section to be sold."

Mr. W. SMITH observed, that by selling the Bank stock, they would apply money to one object which was expressly appropriated by law to another. [Mr. S. read the clause of the act.] It was taking away a fund which produced a certain and considerable income, and replacing it with something very uncertain. It was giving a claim upon the general revenues, after all the expenses of Government were paid, and if there should be no surplus there would be no substitute. For his part, he did not believe there would be any surplus.

The gentleman from Pennsylvania [Mr. GALLATIN] had said he should not go to the Report of

the Secretary of the Treasury to learn the construction of the law. Let him, then, look into the Journals of the House; it would be found that a question had been solemnly debated whether this fund should not be so tied up as not to be appropriated to any other purpose, and the yeas and nays taken upon it, and decided in the affirmative. With respect to what had been said about the willingness of the Bank to receive two millions for the present, he believed gentlemen had mistaken the meaning of the Directors. He believed two millions were wanted for immediate relief; but that the Bank were content that the remainder should not be sold under par. Their wish was, undoubtedly, to have the whole five millions paid, but knowing the great disadvantage to which it might put Government, they were willing to receive only that sum for the present.

Mr. NICHOLAS controverted the opinion of the gentleman last up, with respect to the dividends being pledged in the way he mentioned, and was confident there was no good ground for objecting to the sale of the Bank stock on that pretence.

The question was put and carried on the amendment, and then the Senate's amendment was agreed to as amended.

The Committee then rose and reported the amendments, and the House adjourned.

WEDNESDAY, May 25.

On motion, the report of the committee appointed to confer with the Senate on the subject of their disagreement with respect to the amendments proposed to the bill for the relief of persons imprisoned for debt, was taken up and agreed to. [As the bill now stands, the plan of accommodating the laws of the United States to the State in which an action should be brought is done away, and an uniform plan is adopted throughout the Union, which allows no man to be imprisoned for debt, who surrenders his property and swears or affirms he is not worth more than thirty dollars. By leaving this sum it is meant that a man should not be deprived of his tools, &c., so as to render him unable to earn his future living.]

The House resolved itself into a Committee of the Whole to indemnify the estate of the late Major General Greene, from the payment of a certain bond, for £11,297, which was said to be given on account of Government. After a few observations, it was agreed to, read a third time, and passed.

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The House took up the amendments agreed to in a Committee of the Whole yesterday, in the bill providing for the payment of certain debts of the United States.

Mr. W. SMITH said, he wished to propose an amendment. They had agreed to the provision of the bill, he said, by which the Commissioners of the Sinking Fund were prevented from selling the six per cent. stock under par; but no provision had been made to prevent Bank stock from being sold for less than its value, which was 133½ per

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cent. But, as the bill now stood, the Commissioners might sacrifice the interests of the United States by selling the Bank stock at a much lower price. Indeed, there appeared an inconsistency on the face of the bill by limiting the sale at par in one case, and not in the other. If they were determined the six per cent. stock should not go under par, they ought also to determine that the Bank stock should not be sold under its value. He had made some observations yesterday, he said, upon the violation of the public faith, by selling the Bank stock; but, if the House were determined not to listen to those arguments, he trusted they would attend to the pecuniary interests of the country. At present, he said, the Bank stock yielded an income of eight per cent., and he was confident, if they were to make provision for the payment of their debt to the Bank, it would produce ten or twelve per cent. Was it then proper, he asked, was it prudent, to proceed to sell this stock at the price which he feared it would sell at? For he considered that, bringing two millions of this stock into market at once, would lower the price considerably. In order, therefore, to guard the interests of the United States, and for the sake of appearing consistent, he should move an amendment to the following effect, to follow after that of the Senate:

"Provided, That it should not be lawful for the said Commissioners to sell any share or shares of Bank stock at a less rate or price than 33 $\frac{1}{2}$ per cent. advance thereon."

Mr. SWANWICK said, it was obvious, at first sight, what an amazing distinction was made between the stock of the United States and the Bank stock. In one case the stock was proposed to be sold under par, and in the other, to be limited at even 33 per cent. above par. If the gentleman from South Carolina had proposed that Bank stock should not be sold under par or the first cost, he should willingly have agreed to it; but, when he fixes it at 33 per cent. premium, he calculates upon the profits of the Bank which were liable to great uncertainty. What did this stock cost the United States? It cost par. What the dividends might be, depended upon various circumstances. The object was to pay our debts. Two millions of dollars must be had; but if the six per cent. be limited at par, and Bank stock be not allowed to be sold for less than 33 per cent. above par, it would be supposed, perhaps, they had no intention to pay the Bank at all. In that case, they might experience all the difficulties which the gentleman from South Carolina, yesterday, pointed out, if the stock should not sell. It must be observed that, in making payment to the Bank, the public must be a loser, because the stocks were low. The question was, in which they should be the greatest losers, whether in selling Government stock or Bank stock? He thought it would be less injury for the Bank stock to sell low, than the six per cents. should sell under par, as he conceived no principle so injurious to a nation as the selling of its own stock under par; when once such a principle obtains in the Government, there is no knowing where it will stop.

He did not think it necessary to limit the price of Bank stock. He believed the present price was 27 per cent. above par. He did not, therefore, think the price would be materially affected by the sale of the Government shares, as it was more in demand, proportionably, than any other kind of stock.

When the Bank of the United States saw the mode of payment determined upon for them, he was of opinion that, rather than lose the Government as a partner in the Bank, they would take the stock at par, which could be done without loss to them, as he was persuaded they could get that price for it, allowing time in the payment.

He had been charged, he said, with an appearance of jealousy, with respect to the Commissioners of the Sinking Fund; but he would as soon commit the Bank stock to their care as the other stock, because he was sure no sale could take place under par. The United States might buy in again Bank stock when they chose, and therefore, when he considered the whole, he could not help concluding that it would be most advisable to sell the Bank stock; and he was against limiting the Commissioners of the Sinking Fund to any particular rate of advance upon it. His arguments, he said, were founded on his zeal for public credit, and he was desirous that nothing should go out of that House which should have a tendency to injure it.

Mr. S. SMITH said, the gentleman last up had a very unfortunate mode of supporting public credit. He believed he had mistaken the amendment as well as the bill. The amendment was, that the Bank stock should not be sold for less than 33 per cent. above par. He had said, that it would be injurious to the interests of the United States that six per cent. stock should sell under par, and this provision went to prevent a stock which produced eight per cent. from being sold under par. Mr. S. insisted that it would be a great disadvantage to the United States to sell the Bank stock, as, when this money shall have been paid, the stock would produce at least ten per cent.

Mr. WILLIAMS thought the price of the Bank stock should be limited as well as the six per cent. stock. He believed there would be no Bank stock sold, as the Directors would wish the connexion to remain; and if not sold, it mattered not whether the price was fixed at 33 or any other sum. If much of either kind of stock was to go into the market at once, it would lower the price; and if it went much under par it would be injurious to Government—so much as was sold under par being a clear loss to Government. If the amendment of the gentleman from South Carolina took place, the whole would work together on a fair principle; but, if the whole Bank stock was brought into the market at once, it would lower the price. If, however, the Bank could not do without their money, a question would arise whether they should do justice to the Bank, if the stock did not sell at the price fixed. It was yesterday said, that it was necessary the Bank should be paid; whether the demand arose from their really wanting the money, or from a principle of

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gain, he knew not. He thought the amendment would put the bill into a preferable situation to that in which it was without it. This put the matter on a fair and honorable footing, and if the Bank wished to continue the connection with Government, as heretofore, its Directors would see the necessity of disposing of the six per cent stock at par.

Mr. VENABLE said, the effect of the present amendment seemed to be intended to defeat the bill altogether. It appeared to him that, since the Bank must be paid, some sacrifice must be made, and the question was, which will be the least? If the whole five millions of six per cent. stock was brought into the market at once, he should not reckon upon its selling for more than seventeen shillings. Gentlemen did not calculate the loss which would be sustained by this; but they calculated the loss on the sale of Bank stock. He said, if Bank stock was sold at twenty per cent. above par, it would be a considerable gain; and was there not much difference betwixt doing this, and suffering the loss which must be sustained by selling the other?

Gentlemen seemed to think the Bank had done Government a great favor by admitting it as a partner for two millions—but he believed the charter was worth the whole money to the Bank, and therefore the favor lay on the other side. If this amendment took place, the Bank stock would not be sold; and some new project must be hit upon. As it stood at present, part of the Bank stock and part of the six per cent. stock might have been sold. If any price was fixed upon the Bank stock, let it be a market price; the one now proposed was known to be considerably above it. If they meant to pay the debt, he believed they must sell Bank stock under the present rate, or new stock below par.

Mr. W. LYMAN said, he had no hostility against the Bank—he believed, as he said yesterday, they were not blameable for doing what they had done. They had said they could not do without the money; we must, therefore, said he, take measures to pay them; for they had a right to demand, and it was our duty to pay. But, added he, we are to consult our own interest about the way in which we will pay them. If this amendment took place, they would get nothing. Would they then be satisfied? No. This amendment, he said, was intended to defeat the amendment of yesterday. Which, he asked, was the best? He was at no loss to determine. He thought the plan which proposed the sale of the Bank stock, without limitation of price, was the best. If he was a stockholder in the Bank of the United States, a gentleman had said, he would get out of it as soon as possible; and if it was the interest of individuals to get out of it, it was not less the interest of the United States to do so. This was an additional motive for selling that stock. He believed Banks were very useful to commerce; but he feared them as dangerous engines of Government, and wished to get rid of the connexion. There was no fear of the price falling, as the present holders would purchase, in order to keep up the price, and they should sell their shares to advantage.

Mr. BOURNE said, if he believed with the gentleman last up, that the Bank was a dangerous engine of Government, he should wish to sell the Bank stock; but he did not believe this. On the contrary, he was of opinion that this connexion had been very useful to Government; nor did he believe that gentleman could point out any Government which had been carried on without a similar connexion. The only question was, whether it was the interest of the United States to authorize the Commissioners of the Sinking Fund to sell this stock without limitation. He believed it would not. It was his opinion that it would be more to the interest of the United States to sell the new stock even under par, than to sell the Bank stock at the price proposed. Why, then, should they not fix some price?

Mr. GALLATIN said, he knew nothing of what the Senate would do, nor was he afraid of the Bank with respect of the Government. The Bank might have an influence over individuals, but he was not afraid of its influencing Government. The amendment proposed to-day involved two questions, viz:—whether it was proper to limit the sale of Bank stock to its real value; and, if proper, to determine what is that real value?

Upon the first question, the gentleman from Virginia [Mr. VENABLE] had certainly put it upon true ground. The object of the mover of the present amendment might be to prevent the Bank stock from selling low; but he believed its effect would be to prevent its being sold at all; and by doing so, defeat the purpose of the bill, and the Bank would remain unpaid; for the mover himself said, that if they gave power to the Commissioners of the Sinking Fund, to bring into market their five thousand shares of Bank stock, they would be likely to fall in price. Was not this as much as to acknowledge that they would not even bring 27 per cent. advance which was the present price at market? And if, in the opinion of that gentleman, the very act to bring them to market, was to sink them below 27, how could he expect that a single one could be sold at 33?

It had been represented to them that the six per cent. stock would not bring par; if it would have done so all would have been well, but the Bank had written a letter, declaring that it would not, and, therefore, that the mode proposed for their relief would not have the effect. When this letter was produced, what was then done? An amendment was introduced to sell two and a half millions of the six per cent. stock at any price which could be obtained; but, on receiving information from a gentleman who seemed to be acquainted with the wishes of the Bank, [Mr. S. SMITH,] that two and a half millions would satisfy them for the present, the amendment had been withdrawn, as, in case the six per cent. did not bring par, the Bank stock would produce the sum mentioned; keeping the same object in view all along, viz:—the paying of the Bank whatever they demand, and in the way most beneficial to the United States. If the amendment was agreed to, it would defeat the bill, for the provision to sell the Bank stock contemplated that case where the new-created stock

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could not bring par; and if it so happened, Bank stock would be low in proportion, and, by the amendment, could not be sold. On the contrary, the indefinite power to sell that stock would tend to raise the price of the six per cent.

He thought this perfectly clear, and he took only what gentlemen had themselves said. If the two millions of Bank stock was brought to market, it would have an effect to lower its price, and it would become the interest, not only of the Directors of the Bank, but of all persons holding stock to prevent such an operation. How could this be done? By purchasing six per cent. at par. Take off that inducement, said he, and you take off the inducement which all stockholders and moneyed men would have to purchase six per cent. stock.

But, if they were to fix the price below which the Bank stock should not be sold, they ought not to fix it at 33; upon the mover's own principles, it was not worth it. In fixing the price thus, he calculated upon six per cent. stock selling at par, and Bank stock producing eight per cent., being worth in proportion to the increase of interest; but this was not a just calculation. It was true, the additional interest made the stock more valuable, but not in that proportion. That rule of calculating value of stock by the rate of interest would apply only to a perpetual and irredeemable annuity. On the principle of the gentleman, six per cent. stock should be worth twice as much as three per cent. Bank stock might be considered as an annuity redeemable at the expiration of its charter, at the end of fifteen years.

If the six per cent. stock, irredeemable for twenty-three years, was not worth more than par, an eight per cent. stock, irredeemable for fifteen years, was not worth 133 per cent.

He should be against the amendment, because no evil could arise from the bill remaining in its present form, as he had confidence enough in the Commissioners of the Sinking Fund that they would not sacrifice the interests of the United States by selling the Bank stock on lower terms than the market price, except the Bank was in a situation that required, and would justify it; whilst, on the other hand, should the amendment prevail and the Bank stock not bring 33 per cent. advance, they would have no means of affording the Bank that relief which they had demanded.

Mr. COIT hoped this discussion would not consume much more time. He thought the proposed amendment would make the bill uniformly bad, and the end of the bill would be frustrated.

Mr. GILES said, he was against this proposition, because it would prevent the sale of the Bank stock. Mr. G. said, he had always been an enemy to the institution from its commencement, and he grew more and more so. He was not actuated by motives which he was afraid to avow. He apprehended evil from the institution to the Government; and he thought gentlemen needed only to take a view of the connexion between the Bank and Government for the last six months, to be convinced of its being a dangerous political engine. He thought, also, that it was a union of

moneyed interests, which tended to prevent the people from having one common interest. Indeed, he thought it unconstitutional.

Mr. GILES was of opinion, that if the present proposition was agreed to, it would defeat the object of the bill. As the bill stood at present, it would be the interest of stockholders who wished a continuance of the connexion betwixt the Government and the Bank to remain, to advance the price of the six per cent. stock, so as to do away the necessity of selling any part of the Bank stock.

He was not one of those, Mr. G. said, who thought the Bank had treated the Government rudely; he believed they had treated them politely. He believed they would continue to do so, because he looked upon the Bank as the usurer, and the United States as the spendthrift; and, whenever the Government became largely in their debt, and involved in difficulty, the Bank would come forward, and say—"you owe the money, and you must pay it."

He wished, therefore, to see the connexion betwixt the Government and the Bank dissolved; for he believed every prediction of its evil tendency had been fully verified. He would rather sell the Bank stock at a loss, than create new stock; and he saw no difference, with respect to its legality, betwixt selling the Bank stock and our back lands, or any other property belonging to the United States.

Gentlemen must have seen that they must either go on borrowing money, or determine to lay taxes. He believed some permanent fund must be laid hold of. He was glad they could no longer borrow money in Holland; and, he believed, the present embarrassment would eventually be useful to the United States. The petty excise taxes which they had been engaged in bringing forward, would never be sufficient to answer their purpose; it was necessary, therefore, to turn their attention to some object of taxation which would prove more productive, and do now what wisdom ought to have told them to have done long ago.

Mr. W. SMITH said, whether or not the Bank had acted the part of a usurer, was to be determined; but, were the House to disagree to the present amendment, he believed they would be justly charged with being spendthrifts.

The gentleman last up, and some others, had said the Commissioners would doubtless sell the Bank stock for the market price. But these gentlemen had no confidence in the Commissioners on the former question. He believed the six per centum stock would sell for nineteen shillings, which would only be a loss of five per cent. But what was likely to be the loss on the Bank stock? He believed it probable that there would be a loss of 33 per cent., for he did not think, when the two millions should be brought into the market, it would sell above par; besides which, they should lose by the sale of it a probable increase of income of sixty or eighty thousand dollars a year. Was this circumstance not to be attended to? Were they to run this risk, because they had an antipathy to the Bank? He hoped not.

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Gentlemen were inconsistent with themselves. They say the amendment will not have the effect, because moneyed men will come forward and prevent the Bank shares from being sold. How did gentlemen reconcile these opinions? At one moment, they wish the Bank stock to be sold; in the next, they say, it will not be sold.

But, would this be the effect? On the contrary, he believed moneyed men would be glad of the low price, for the purpose of speculation, for they would be the purchasers. If the bank were to urge payment, there were moneyed men in the country, who would buy up the stock, and make fortunes by it. But, says the gentleman from Pennsylvania, [Mr. SWANWICK,] the United States might hereafter buy them in again—so, that gentleman would have the Government turn speculators.

Another curious argument. It was said the operation of this amendment would be, there would be no provision for the Bank at all. Then what had they been doing? If the amendment was to prevent the sale of the Bank stock, it would leave the six per cent. in the same situation in which it went from that House to the Senate, and that was thought, by those gentlemen, a very ample provision. They appeared, by this assertion, to defeat their own arguments.

He had already said that, if the six per cent. stock sold for nineteen shillings, there would be a loss of only five per cent.; but if the Bank stock sold at par, there would be a loss of 33. Gentlemen say, the present price was only 27; he had no objection to the price being left blank, or to say the market price; but, to authorize the Commissioners to bring the whole to market, without limitation, was giving an authority which they ought not to give. Gentlemen said, they had confidence in the Commissioners; but, if they will not confide in them in one case, why in the other? He hoped the amendment would be agreed to, that the bill might not pass with so glaring an inconsistency on the face of it.

The question was then put and negatived, 47 to 33.

Mr. W. SMITH then moved to insert, "not under the market price."

Mr. WILLIAMS said it appeared to him that, without the amendment, the Commissioners of the Sinking Fund might bring the whole into the market at once, and by that means sink the price so much as not only to occasion considerable loss to the United States, but to individuals who might be obliged to sell their shares. But gentlemen said, if the amendment took place, it would defeat the bill, though it did not alter the ground upon which it originally went from the House to the Senate. With respect to the objections which gentlemen had to the bill, he believed this was not the foundation of them. The gentleman from Virginia [Mr. GILES] had said, he was always an enemy to the connexion between the Bank and Government as unconstitutional, but he believed the Legislature had determined otherwise.

Mr. W. said, he would for a moment take a view of our affairs. A year or two ago, they were under

every obligation to the Bank for money; and, while the war continued in Europe, they did not know how soon they might have occasion again to apply to the Bank for assistance. If any unforeseen circumstances should take place, which would have the effect to stop the source of our revenue, ought we, said he, to do anything which would arrest the whole power of Government in such a case? He hoped the amendment would be agreed to.

Mr. SWANWICK said, the object of this bill was to pay the Bank—to give them fresh elasticity. But gentlemen say, shall the United States bring 5,000 shares of Bank stock into the market at once, though in the other case they should bring, instead of two millions, five millions of dollars six per cent. stock for sale? And was Bank stock only to be regarded? It was astonishing to see some gentlemen extremely anxious about the credit of the Bank stock, and perfectly easy about the credit of the United States.

They were in difficulty. They must pay two millions. Their own stock will not sell at par, and it would surely be better to sacrifice a little on the advanced price of the Bank stock, than to do the most alarming and awful thing imaginable, viz: injure the credit of the United States, by holding up an idea of coining new stock, and selling it under the par price.

The gentleman from South Carolina said that he had no objection to the insertion of "present market price," instead of "33 per cent." This would not be proper, because the price might possibly vary, even while the bill was passing, and it would be difficult to say what the present price was.

Mr. MACON moved to strike out the word "present." It appeared to him that they had better sell the Bank stock which they held, than create new stock and sell it; for he believed, as stocks were now low, that if five millions of six per cents. were now brought into the market, they would not sell for more than from 15s. to 17s. 6d.

Mr. S. SMITH moved to strike out the whole of the present amendment, and insert "25 per cent."

Mr. W. SMITH said, he had no great objection. He believed the present market price was about 27. The gentleman from Pennsylvania had said he had conversed with some of the Bank Directors, and that they had no objection to the Bank Stock being sold. He did not know how that was, but he believed many gentlemen would be pleased if the whole of that stock should be brought into the market, that the price falling, they might have an opportunity of speculating; but, as guardians of the public interest, he trusted they should consider what was the best for the United States.

Mr. HARPER hoped this amendment would not be agreed to. As they had rejected the only true criterion of the value of Bank stock, viz: 33½, he would leave the sale unrestrained, as they had agreed that, if the six per cent. stock could not be sold at par, this should be sold. He thought both the determinations wrong, but he believed the present amendment would not make the matter better, but worse.

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Compensation to Marshals, &c.

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Mr. H. said he had before lamented that it should have been thought necessary to make philippics against the Bank. The gentleman from Virginia [Mr. GILES] had told them that he hated the Bank. They all knew that five years ago. He called that institution "An union of moneyed interest to keep down the public opinion." He did not know what he meant by this. He did not believe that the Bank could prevent that House or the Government from doing what they thought it proper to do.

The question was taken by yeas and nays on the amendment, and negatived, 49 to 33. The Senate's amendment was then carried, 45 to 35.

NORTHWESTERN TERRITORY.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and
of the House of Representatives:*

The measures now in operation for taking possession of the posts of Detroit and Michilimackinac, render it proper that provision should be made for extending to these places, and any others alike circumstanced, the civil authority of the Northwestern Territory. To do this will require an expense, to defray which the ordinary salaries of the Governor and Secretary of that Territory appear to be incompetent.

The forming of a new county or new counties, and the appointment of the various officers, which the just exercise of Government must require, will oblige the Governor and Secretary to visit those places, and to spend considerable time in making the arrangements necessary for introducing and establishing the Government of the United States. Congress will consider what provision will in this case be proper.

G. WASHINGTON.

UNITED STATES, May 25, 1796.

The Message was read, and ordered to be referred to Mr. SITGREAVES, Mr. GREENUP, and Mr. REED.

COMPENSATION TO MARSHALS, &c.

The House went into a Committee of the Whole on the bill making additional compensation to Marshals, Jurors, Witnesses, &c., in the trials of persons concerned in the late insurrection. After some observations on the subject—in which it was allowed the pay now given to such persons was far too low, but that there could be no good reason given for extending the provision to the late trials on account of the insurrection more than others—the principle was at length agreed to, and a sum of \$30,000 (according to the estimate of the Secretary of the Treasury) appropriated.

Mr. W. SMITH read a letter which he had received from the Secretary of the Treasury, stating, that for want of a District Attorney in Kentucky, no duties could be collected; that the Governor himself refused to pay, and that the people sheltered themselves under his example. He proposed, therefore, that a clause should be added to this bill—as he doubted whether the report which had just been read respecting the District Attorneys would be got through this session—allowing the Attorney for that district a compensation which should induce him to prosecute the business.

After a little debate on the subject—in which Mr. THATCHER said it was in vain to pay any Attorney to recover duties in that State, since there was not an honest man amongst them, in respect to their duties, and Mr. GREENUP, from that State, had replied to him, defending the conduct of the Governor and people of that State, and blaming the revenue officers, the additional section was agreed to, 37 to 27.

The Committee rose and reported.

A message was received from the Senate informing the House that they had disagreed to the resolution to adjourn the two Houses on the 25th instant.

The amendments of the Senate to the bill altering the time of holding the District Courts of Vermont and Rhode Island were agreed to.

The committee to whom was referred the Message of the PRESIDENT respecting an allowance to District Attorneys, reported, and recommended sums from \$150 to \$350 a year to be allowed to them, in addition to their fees. The report—after some objections on the ground of putting the consideration off till next session—was read a second time, and ordered to be referred to a Committee of the Whole to-morrow.

THURSDAY, May 26.

Mr. TRACY reported a bill for the relief of John Sears; which was twice read, and ordered to be committed to a Committee of the Whole to-day.

A message from the Senate informed the House that the Senate insisted upon their disagreement to the bill altering the compensation of Clerks. A Committee of Conference was appointed on the subject of disagreement.

On motion of Mr. S. SMITH, the House formed itself into a Committee of the Whole on the bill providing passports for the ships and vessels of the United States; which was agreed to without amendment, and ordered to be engrossed for a third reading to-morrow.

The House went into a Committee of the Whole on the bill to continue in force the acts therein mentioned, which they made one amendment in, and then rose. The House agreed to it, and ordered the bill to be engrossed for a third reading to-day; which it afterwards received, and passed.

The House also considered, in Committee, the bill authorizing the Secretary of the Treasury to lease certain salt springs in the Northwestern Territory. The blank which was to contain the term of the lease was filled with three years. The House agreed to it. It was ordered to have its third reading to-day; which it had, and passed.

A message was received from the Senate informing the House that they disagreed to their amendment in the bill providing for the payment of certain Debts of the United States, and desired a conference thereon. A Committee of Conference was accordingly appointed.

The House took up the amendments yesterday made in Committee of the Whole on the bill for satisfying certain demands occasioned by the trials during the late insurrection, for providing addi-

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Extra allowance to Clerks, &c.

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tional pay to Marshals, Jurors, and Witnesses, and to allow a further compensation to the District Attorney of Kentucky. They were agreed to, and the bill was ordered to be engrossed and read the third time to-day. It was afterwards read the third time and passed.

[By this bill, an additional allowance of a dollar a day is made to Marshals, who had before five dollars; of one-and-a-half dollar to Grand and Petit Jurors, who had before only fifty cents; fifty cents to witnesses, who where before paid agreeably to the practice of each State; and two hundred dollars were allowed, in addition to his fees, to the District Attorney of Kentucky.]

EXTRA ALLOWANCE TO CLERKS.

After some debate upon the propriety of postponing the subject till next session, the House went into a Committee of the Whole on the bill making an extra allowance to certain clerks of public offices, and the widows of such as are deceased, who remained in Philadelphia during the yellow fever, together with the report of the Committee of Claims thereon, to whom the bill had been referred.

The report stated that the objects of the present bill divided themselves into three classes, viz: the widows of such clerks as died in the calamity; such as remained to transact business which was necessary to be done, and could not be transacted at any other time; and such as remained to do business which, though of some importance, might have been done afterwards. With respect to the first, the committee had no doubt as to the justice of their claim: with respect to the latter two classes, they were at a loss how to discriminate between them, and therefore had reported in favor of the whole. And yet they were aware it would be introducing a principle that would extend itself to New York, Baltimore, Norfolk, and New Haven, which had been visited by a similar calamity, and consequently bring forward a considerable number of claimants. The persons included in this bill were betwixt 60 and 70; and though 100 dollars each was only proposed to be allowed, it would make a considerable sum in the whole.

Mr. SWANWICK advocated with all his force, the cause of these men who had remained, he said, at their stations when their superiors fled from the pestilence which threatened them, and which swept a number of the clerks away, whose widows and orphans were now left to lament their temerity. Mr. RUTHERFORD also plead their cause. Mr. HEATH and Mr. S. SMITH opposed the bill, as establishing too broad a principle, whilst they had been obliged to turn a deaf ear to the distressed widows and orphans of soldiers, and that, as these persons had no real claim upon them, they ought to be just before they were generous. At length, on motion of Mr. CORR, the first section of the bill was agreed to be struck out, 35 to 25, and the other parts of the bill so altered as to include the widows of such persons as died during the fever. Mr. S. SMITH approved of this measure, as being analogous to the relief granted to wounded soldiers or their widows; but

Mr. SWANWICK denied the analogy of the two cases. When a soldier enlisted into the Army he knew he had risks to run—his business was to meet with danger; but these clerks entered into the service of Government with no such views, and might have fled, as their superiors did, when the danger appeared. War and pestilence, he said, could not be compared together.

The Committee rose, and reported the bill thus amended; when Mr. BOURNE made a motion to postpone the further consideration of the subject till the first Monday in December, on the ground of giving further time for considering the subject, and because he thought some relief should be given to those persons who where at present struck out of the bill. Mr. SWANWICK opposed this, as he said the widows were in want of relief, and because a future bill might be brought in to afford compensation to the clerks who had been happy enough to survive the calamity. The postponement was, however, carried by a large majority.

MILITARY ESTABLISHMENT.

Mr. S. SMITH, from the Committee appointed to confer with the Senate on the subject of their disagreement with respect to the bill concerning the Military Establishment, made a report. The Senate have receded from their amendment in respect to having the usual complement of dragoons instead of two companies, and the House of Representatives have agreed to their amendment for retaining the Major General, with a provision that this act shall continue in force only till the 4th March next, (the day on which the next session of Congress closes.)

JOHN CLEVES SYMMES.

The House formed itself into a Committee of the Whole on the letter and report of the Attorney General on the petition of John Cleves Symmes and his associates, with respect to a contract made by them with the Government of the United States in 1792. By this contract, a mile square at or near the mouth of the Great Miami river was reserved to the use of the United States for the purpose of erecting thereon Fort Washington, (which is said now to be an improper situation,) provided a law was passed within two years from September 30, 1794, authorizing the PRESIDENT OF THE UNITED STATES to locate the same.

A resolution to that effect was therefore brought forward and agreed to. Mr. HENDERSON proposed two resolutions, which would have led to an examination of the merits of the contract, which, being of an intricate nature, was objected to, at this late period of the session. The Committee therefore rose, reported the resolution, and a committee was appointed to bring in a bill.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act laying out into one State the territory ceded by the State of North Carolina to the United States, and providing for an enumeration of the free inhabitants thereof;" to which they desire the concurrence of this House.

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Agent for Foreign Expenditures, &c.

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FRIDAY, May 27.

The bill providing passports for ships and vessels of the United States was read a third time and passed.

On motion of Mr. CHRISTIE, the House resolved itself into a Committee of the Whole on the bill for the relief of John Sears; which was agreed to. It was ordered to be engrossed for a third reading to-day; which it afterwards received, and was passed.

The House also considered, in Committee, the bill to satisfy the claim of Baron Steuben; which, being agreed to, was ordered to be engrossed for a third reading to-morrow.

ADMISSION OF TENNESSEE.

A bill from the Senate for laying out into one State the whole territory South of the Ohio, ceded by North Carolina to the United States, was read the first time.

Mr. MACON moved to reject this bill, as being predicated on directly opposite ground from that on which that House had come to a resolution to admit the Southwestern Territory as a State into the Union. This called forth considerable debate, but several of those who were averse to the bill expressing a wish that the bill might have a second reading, in order to be disposed of, the motion of rejection was put and lost; when, on motion of Mr. GILES, the bill, together with the Message of the President relative to this subject, and the resolution entered into by that House, were ordered to be referred to a select committee of five members.

COMPENSATION OF CLERKS.

Mr. W. SMITH, from the committee appointed to confer with the Senate on the subject of their disagreement on the bill regulating then compensation of clerks, reported that the committee on the part of that House had receded from their amendment, (which was to allow one hundred dollars a year to such of the clerks in the office of the Secretary of the Senate and Clerk of the House of Representatives as were employed the whole year.) The House agreed to the report.

AGENT FOR FOREIGN EXPENDITURES.

Mr. W. SMITH said, that the Committee of Ways and Means had directed him to report the following resolution for the consideration of the House:

"Resolved, That provision ought to be made for the appointment of an Agent or Commissioner to superintend the foreign expenditures of the United States, if the President of the United States shall find it necessary to employ such Agent or Commissioner."

This motion occasioned considerable debate. It was asserted in support of it, that the Secretary of the Treasury had stated that such an agent was necessary to transact our money concerns in Holland, which was at present done by merchants residing there, who had an interest opposite to that of the United States. It was, on the contrary, urged that if such an agent were sent to Holland, he would still have to employ merchants to trans-

sact a business with which he was utterly unacquainted; that it would be the interest of such a Power as much as it was to the interest of the Dutch merchants to keep up the foreign debt, (contrary to the wish of the Government, who were desirous of changing their foreign to domestic debt,) because, when it was done away, his office would cease; and that our Minister at the Hague might as well transact the business with the merchants at Amsterdam as any person sent for that express purpose.

The motion was negatived; and then Mr. MACON moved that the further consideration of this question should be postponed till the first of December next; which was carried, yeas 40, nays 35, as follows:

YEAS.—Theodorus Bailey, Abraham Baldwin, Lemuel Benton, Nathan Bryan, Samuel J. Cabell, Thomas Claiborne, Isaac Celes, Jeremiah Crabb, Samuel Earle, William Findley, Jesse Franklin, William B. Giles, James Gillespie, Andrew Gregg, William B. Grove, Wade Hampton, Robert Goodloe Harper, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, James Holland, Aaron Kitchell, Matthew Locke, Samuel Maclay, Nathaniel Macon, John Milledge, Andrew Moore, Anthony New, John Nicholas, Francis Preston, John Richards, Israel Smith, Richard Sprigg, Jr., John Swanwick, Zephaniah Swift, Absalom Tatom, Abraham Venable, John Williams, and Richard Winn.

NAYS.—Thomas Blount, Benjamin Bourne, Theophilus Bradbury, Richard Brent, Joshua Coit, Wm. Cooper, George Dent, Abiel Foster, Dwight Foster, Albert Gallatin, Ezekiel Gilbert, Nicholas Gilman, Chauncey Goodrich, Roger Griswold, Carter B. Harrison, Th's Henderson, William Hindman, John Wilkes Kittera, James Madison, Francis Malbone, Frederick A. Muhlenberg, William Vans Murray, John Reed, Samuel Sitgreaves, Nathaniel Smith, Isaac Smith, William Smith, Thomas Sprigg, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Philip Van Cortlandt, and Peleg Wadsworth.

MILITARY AND NAVAL APPROPRIATIONS.

On motion of Mr. W. SMITH, the House resolved itself into a Committee of the Whole on the report of the Committee of Ways and Means relative to appropriations for the Military and Naval Establishments, and for the payment of Military Pensions, and came to the following resolution:

"Resolved, That there ought to be appropriated for the year 1796, for the Military Establishment, including the sum already appropriated by law, during the present year, ——— dollars; for the Naval Department, ——— dollars; and for the Military Pensions, ——— dollars."

The House agreed to the resolution, and the Committee of Ways and Means were directed to bring in a bill accordingly.

CONTESTED ELECTION.

The House took up the consideration of the report of the Committee of Elections on the petition of MATTHEW LYON, complaining of an undue election and return of ISRAEL SMITH; and the chairman of the Committee offering a resolution

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to the House declaring the election void, on motion, the decision of the House was postponed till to-morrow.

AMY DARDIN'S HORSE.

On motion of Mr. CLAIBORNE, the House formed itself into a Committee of the Whole on the report of the Committee of Claims on the petition of Amy Dardin, who prayed for compensation for a very valuable horse which had been impressed during the war. The report was against the petitioner, on the ground of the act of limitation barring the claim. The case appeared a hard one, as a widow and orphans were in want of the money; and several members having suggested that application had been made before the act of limitation took place, proof of which could be substantiated, the Committee rose, and the papers were re-committed to the Committee of Claims.

SATURDAY, May 28.

The bill for satisfying the claim of the representatives of the late Baron Steuben was read the third time and passed.

Mr. SITGREAVES reported a bill to authorize the PRESIDENT OF THE UNITED STATES to cause to be located one mile square of land at or near the mouth of the Great Miami river, reserved out of the grant of John Cleves Symmes; which was twice read, and ordered to be engrossed for a third reading to-day, which it afterwards received and passed.

Mr. W. SMITH, from the Committee of Ways and Means, reported a bill making provision for the Military and Naval Establishments, and for other purposes; which was twice read, and ordered to be committed to a Committee of the Whole to-day.

A message was received in writing from the PRESIDENT informing the House that a further appropriation was necessary for the support of foreign correspondence. An estimate accompanied the Message, by which it appeared that upwards of \$23,000 would be wanted in addition to what had already been appropriated. The Message was read, and referred to the Committee of Ways and Means.

A message was received from the Senate informing the House that the Senate had come to a resolution to authorize the President of the Senate and the Speaker of the House of Representatives to close the present session on Wednesday next, the first of June.

CONTESTED ELECTION.

The report of the Committee of Elections, to whom was re-committed the petition of MATTHEW LYON, complaining of an undue election and return of ISRAEL SMITH, for the State of Vermont, recommending a resolution to the adoption of the House, declaring Mr. SMITH not to be entitled to his seat, was taken up for consideration. The sitting member spoke at considerable length on the subject, giving his reasons why the election should not be set aside, and Mr. SWIFT replied, explaining the motives which had influenced the decision of the Committee of Elections.

On the conclusion of Mr. SWIFT's observations, Mr. GILES moved that this subject be postponed till Monday, to take up the matters in dispute betwixt the Senate and that House, which was agreed to.

DEBTS OF THE UNITED STATES.

Mr. GALLATIN, from the committee appointed to confer with the Senate on their disagreement respecting the bill providing for certain Debts of the United States, reported that the committee on the part of that House had agreed that a moiety of the six per cent. stock to be created should be sold under par, if necessity required it.

Mr. SWANWICK said, he was ever disposed to agree with the Senate, when he could do it with propriety; but he never would consent to sanction a principle which should authorize the selling of six per cent. Government stock at less than par. The report of the Committee allowed the Commissioners of the Sinking Fund to sell two and a half millions of that stock under par, and, therefore, he could not vote for it. And, as he believed it was a most important question, he hoped he should be indulged by the yeas and nays being taken upon it.

Mr. GILES said, he should vote against concurring in this report. The provision, he said, for selling the Bank stock was merely nominal, for he did not think it would be sold. It had been said that two millions would satisfy the Bank for the present; if this was so, (and it had been several times asserted on that floor,) the Commissioners being empowered to sell one half of the six per cent. stock below par, there would be no necessity for having recourse to the Bank stock.

There was another reason which had been strongly urged by the gentleman from Pennsylvania, viz.: that if the six per cent was not allowed to be sold under par, it would be the interest of moneyed men to purchase it, rather than suffer the Bank stock to be sold. He thought the accommodation an unwise one, and should therefore vote against it. He was of opinion, that, rather than have sold the Bank stock, there would have been means found of disposing of the six per cent. at par.

Mr. GALLATIN said, so far as his own feelings went, it was with great reluctance that he agreed to this regulation. It was proper their situation should be understood. They owed to the Bank of the United States, to the Bank at New York, and to Holland, five millions of dollars, for which no provision was made. It was necessary, therefore, there should be an effective power given to borrow this money. He had hoped the Bank would not have required the whole of the money. This he had before said; but, whilst they insisted upon their money, it was the duty of Government to pay them. It was not only their duty to pay the Bank, but that institution would, at all events, be paid; for the revenue of 1795, which came in the Treasury during the present year, was already appropriated for that purpose, and the Secretary of the Treasury would be under the necessity of paying them out of that fund, if provision be not made in a different way. It had been said the

Bank was willing to receive a part of the money only at present; but of this they had no official information. The Committee appointed to confer with the Senate, having taken some pains to inquire into this subject, and a gentleman in the Senate (who he believed, was a Director of the Bank) had informed them, that provided the Bank stock was not sold the Bank would be satisfied with two and a-half millions at present; but, if it were to be sold, they must have the whole amount paid them. This was the condition; and, not thinking it right to agree to any condition of that sort, they had made provision for paying the whole, viz.: one half by the Bank stock, and the other half by the six per cent. stock, under a supposition that the Bank stock will at least sell for one hundred and twenty-five. This, he said, was the ground upon which the compromise took place. They thought it better to do this than agree to sell half of the six per cent. stock under par, and take out the clause which authorized the selling of the Bank stock, as they thought that power vested in the Commissioners might be a means of getting the full price for the six per cent. stock.

If this accommodation had not taken place, Mr. G. said, the bill would have been lost, and the Bank must have been paid with the revenues which would be wanted for paying the current expenses. Whatever difference of opinion there might be amongst them, they must agree in the necessity of having the money.

The Committee thought it best to come to this condition. It would be a lesson to them, in future, he trusted, to raise a revenue equal to their wants. Upon the whole, he did not believe they could make any better condition with the Senate. They had agreed to it, and he hoped it would be adopted.

Mr. NICHOLAS said, he had objections to selling the six per cent. stock under par; but, his objections were in some degree lessened by one half the quantity created being only sold at that price, and that the remainder of the debt due to this Bank was to be paid by a sale of the Bank stock; as this would have an operation to keep up the price of the other stock.

But how did they stand? The Senate and that House were parties to pay a third party. We cannot, said he, say to the Bank we will not pay you, except you will be paid in a certain manner. We must pay them in a manner to which they cannot object. They had, therefore, been obliged to agree to the present accommodation.

He should wish that the United States should smart in this instance, that they might be careful how they came into such a situation in future. He cared not how much they suffered, that they might be induced to leave their present trifling system of taxation, and have recourse to one that could be relied upon. He saw no alternative but to agree to the present report. That House was at variance with the Senate, and if they lost the bill, they might get a worse, for the Committee from the Senate wished to get rid of their own amendment. It was the opinion of the Senate that the Bank stock ought not to be sold, but that the six

per cent. stock should be sold, at the best price which could be got for it; whilst it was the opinion of a majority of that House that the Bank stock should be sold, and only so much of the other as would sell at par. However, some agreement was necessary, and the present was the best they could make. He should, therefore, vote for agreeing to the report, though he disliked the mode to be adopted in paying this debt.

Mr. N. declared he had no enmity to the Bank; his whole object was to raise money on the best terms. As to their connexion with the Bank, if it was not a good one, it was not the fault of the Bank. Government, he said, was under obligations to the Bank; he thought the Legislature only to blame for having agreed to the connexion.

Mr. COIT said, since they were five millions in debt, it was necessary it should be paid. Gentlemen who were opposed to this mode should propose another, which they thought better. If they owe five millions, two millions of Bank stock will not pay it, it was necessary therefore to sell a part of the six per cent. stock. But the objection was that that stock was to be sold under par. But if it would not sell at par, and the debt must be paid, and it was our duty to pay it, what remedy was there? He saw none.

Mr. W. SMITH said, he was not displeased with the present discussion, because he had no doubt that gentlemen who lamented so pathetically our being in debt, would feel themselves under an obligation to bring forward and support some effectual measures at the next session for raising more efficient revenues, and for discharging our debts.

It did not follow, he said, because the six per cent. stock was permitted to be sold below par, if necessity required it, that it would be sold under par. He hoped it would not. And he said, if they were, on this occasion, under the necessity of selling this stock under par, he saw no reason for so much squeamishness; they had frequently purchased their own stock under par.

Gentlemen had, on a former occasion, felt no apprehension of the Commissioners of the Sinking Fund selling the Bank stock for less than its value, and they need not fear that the six per cent. stock would be sacrificed.

He thought the bill a good one now, were it not for the clause about the Bank stock being in it. He wished the conferees had struck it out.

Mr. SWANWICK said, if he thought as the gentleman last up appeared to do, that the establishment of the principle of selling Government stock under par, would have no injurious effect upon public credit, he should not be so firmly opposed to it; but, because he thought the question big with alarming danger to this country, he should continue his opposition to the measure. What was the system established? They passed a number of laws, authorizing money to be borrowed at six per cent., and authorizing the Bank to lend on those terms; but when the Bank is to be paid they come forward, and offer for sale stock bearing an interest of six per cent. at any price under par. What a dangerous principle this as to any chance of obtaining revenue for the Government! Mem-

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bers would always pass loan bills with great ease; but if they were to lay taxes they would look more sharply around them. No one seemed to think with so much dread on borrowing as on taxation.

But it was said, we were obliged to give this power to pay our debts; but, would any loss sustained at present discourage Government from again going on with the same system? The ease with which money was borrowed, he feared from the neglect of some and indolence of others, would retard taxation. It would be in vain that the gentleman from South Carolina called upon gentlemen to bring forward systems of taxation, or brought them forward himself, whilst borrowing was encouraged, and so much in vogue.

Did the Bank require five millions? He believed not. They had been told on this floor that they would have been satisfied with two millions. When he was so little squeamish about Bank stock, it was because he knew it must and would be sold above par and of course to a profit.

By the insertion of the clause for selling two-and-a-half millions of six per cent. stock under par they made the selling of Bank stock unnecessary. And what an enormous power did they propose to give the Commissioners of the Sinking Fund? He was not jealous, he had no reason to be so; but suppose this stock was sold at 16 or 17s. in the pound, what would be the consequence? The gentleman from South Carolina pretended to make a limitation with respect to Bank stock, but now nothing was said of limitation as to the United States six per cent. stock that might be sold at any rate.

Much had been said about enmity and friendship for the Bank. He should say nothing on that head. The question was, whether they should give sanction to a new principle in finance; to this power of passing six per cent. stock through the mill? If it should be so determined, he must submit, though he should think the measure a very bad one.

MR. KITCHELL asked if there was no way of modifying the expression "shall be sold under par?" He did not like the manner of it, though he believed he must vote in favor of it; but he wished the phraseology somewhat altered.

MR. HAVENS said, that he should have considered the compromise which had been proposed by the Committee of Conference between that House and the Senate, as less exceptionable, if it had been agreed that one-half of the moneys which were to be raised for the payment of the debt due to the Bank, had been proposed to be raised by selling the stock intended to be created by the bill for what it would bring in the market, and the other half by the sale of Bank stock to be disposed of in the same manner; but the compromise which had been agreed upon by the Committee, contemplated no such thing; they had agreed that one-half of the six per cent. only should not be sold under par, and the other half was to be sold for whatever it would bring. This he considered as a total relinquishment of the object which was contemplated by the amendment of the Senate,

which was to sell the Bank stock. Two millions and a half of six per cent. stock were, by this proposed modification of the business, to be brought into market and sold for what it would bring; and, if this were to be done, he doubted much whether it would sell for more than 16s. in the pound. This he considered as a very great loss to the public, which ought, if possible, to be avoided. He did not think that the irredeemability of the stock, which had been one of the proposed conditions upon which it had been created, could be considered as adding much to its present value; an irredeemable quality annexed to stock could be supposed to add much to its value only in such circumstances as where there was plenty of money to be borrowed, and, comparatively speaking, but few persons to borrow it. This was not the case at present, as must be evident, when the Government was driven to the necessity of giving an extravagant premium for money, by selling their stock under par. For these reasons, he did not believe that so great a quantity of stock offered for sale at once, would bring more than what he had mentioned. He had made a computation, by which it appeared, that if the Bank stock were to be sold for no more than £114 per cent. which was much above par, it would be equally advantageous as if the six per cent. stock were to be sold at seventeen shillings in the pound, admitting the present value of Bank stock was £138 1-3 as had been stated. He was persuaded that the Bank stock would sell for more in proportion than six per cent. stock, because individuals would be inclined to purchase it, by reason of its giving them a better credit at the Bank, and enabling them, therefore, to borrow money there with more facility. This must, therefore, keep up the price of Bank stock above the six per cent. stock, and to sell it must, therefore, be a more advantageous mode of discharging the debts of the Government. It did not appear to him, that the reasons which had been given by those who were opposed to the Bank stock, were well-founded. It had been said, that this stock was very valuable. If it was, then there would be less loss in selling it. He could not persuade himself to believe that it would be any disadvantage to the Government, if they were not to be stockholders in any Bank; he did not doubt but that the Government would be enabled at all times to obtain loans, by the way of anticipation of its revenues, or on any other condition, from the Bank of the United States, or from any other Bank with whom it might be thought proper to deposit the public moneys, on the ground of its general credit, without having recourse to the scheme of being always stockholders in a Bank to procure credit. The reasons which made it advantageous for individuals to hold stock in a Bank in order to obtain credit, did not apply to the Government, as was evident from the case then under consideration. It had been likewise urged as a reason why we should agree to the proposed compromise with the Senate, that they would not agree to any other modification of the bill; in answer to that he should only say, that the same argument might be urged in the Senate with as

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much propriety to induce them to agree to the opinion of the House of Representatives, as it could be urged there to induce them to agree to the opinion of the Senate; on a question of compromise the reasoning must apply equally to both Houses. He said, he had heretofore supposed, that there existed some urgent necessity for the public to make considerable sacrifices, in order to discharge this debt; but he now adopted a different opinion, and what had operated very powerfully upon his mind to incline him to this change of sentiment was, the motion which had been made by the gentlemen from South Carolina [Mr. W. SMITH] when he had proposed that the Bank stock should not be sold for less than £133 1-8 per cent. He presumed that gentleman spoke the language or consulted the interests of the Bank in making that motion, and that, therefore, the Bank could not consider themselves as standing in any great need of the money, if they were unwilling that the stock of the Government should be sold, unless at so high a price, when the money thence arising was to be applied to discharge a debt due to them. It appeared evident to him, from that circumstance, that the Bank must view it as less disadvantageous to them to continue their credit to the Government for some time, than to have the Government stock sold in order to discharge the debt; he therefore concluded, that if the bill were to be lost, and the subject were to be again taken up at the next session of Congress, it would be a matter attended with no public inconvenience. For these reasons he should therefore vote against the report of the Committee.

Mr. W. LYMAN said, it appeared to him, that if this bill passed, giving power to the Commissioners of the Sinking Fund to sell one half the six per cent. stock at what they could get, the Bank, who wanted the whole five millions, would first take the one half at par, and then purchase the other at a low price, as being more than an overmatch for any competitor who might come against them, so that no part of the Bank stock would be sold. As to the observations of gentlemen who said they were bound to pay the money, since the Bank required it, he would ask, whether if they were obliged to pay the money, they were obliged also to part with their judgments, because the Senate did not choose to accede to the plan they had agreed upon? The doctrine of being obliged to do a thing, because the Senate would not do so and so, was too often asserted in that House. For his part, when he was convinced he was right, he would never recede from his opinion. He would disregard the proceedings of the Senate; and, if they would not do what was right, they must be answerable for the consequences. He was ashamed of such arguments as these. He believed the Senate would agree, if they were to adhere to their amendments. He believed that if they directed the Bank stock to be sold, and as much of the other as could be sold at par, ample provision would be made; he therefore should not agree to the present bill. A gentleman from Virginia, [Mr. NICHOLAS] had said, he should vote for it as a chastisement of our folly; if it was voted for

with this view, he believed the end would be attained, because he believed the United States would suffer great loss from a payment of this kind.

Mr. W. SMITH would not have risen again, if he had not thought the gentleman last up had misunderstood the business. He had said, it was in the power of the Bank to take the stock at twelve shillings in the pound. On the contrary, Mr. S. said, the Bank could not take any part of the stock under par. They were restricted by their charter from buying stock, and this bill only gave them the power to lend the whole of the five millions, and to subscribe it, but it must be at par.

The gentleman's idea of adhering to his own opinion, would do very well in a Government of only one branch, but was not suited to a Government of two, whatever the other branch did, he says he would abide by his opinion. Suppose the gentleman knew for a certainty that the doctrine which he supported would not be agreed to in the Senate. One branch of the Government might insist upon its opinion, and the other upon theirs, and nothing would ever be done. The fault, in this case would lie upon both, for want of an accommodating spirit. The gentleman said the amendment proposed would prevent the Bank stock from being sold; if it would produce that effect he should sincerely rejoice.

It was not, Mr. S. said, as the gentleman from New York [Mr. HAVENS] had stated it, because he was better acquainted with the wishes of the Bank than other gentlemen, that he proposed the amendment he alluded to. It was not because he knew more of the disposition of the Directors than other gentlemen; but he must own, he would rather sell the six per cent. stock under par, than sell the Bank stock at their present price. The gentleman from Pennsylvania [Mr. SWANWICK] thought it would be more advantageous to sell Bank stock under par than six per cent. but he was of a far different opinion for the reasons he had before detailed. He hoped the report would be agreed to.

The question was taken by yeas and nays, and carried—yeas 45, nays 35, as follows:

YEAS.—Fisher Ames, Benjamin Bourne, Theophilus Bradbury, Joshua Coit, William Cooper, George Dent, Samuel Earle, Abiel Foster, Dwight Foster, Albert Gallatin, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Roger Griswold, Wade Hampton, Carter B. Harrison, John Heath, Daniel Heister, Thomas Henderson, William Hindman, Aaron Kitchell, John Wilkes Kittera, Samuel Lyman, James Madison, Francis Malbone, John Milledge, Frederick A. Muhlenberg, Wm. Vans Murray, John Nicholas, John Reed, John Richards, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, Thomas Sprigg, Zephaniah Swift, George Thatcher, Mark Thompson, Uriah Tracy, John E. Van Allen, Philip Van Cortlandt, Peleg Wadsworth, and John Williams.

NAYS.—Theodoros Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Gabriel Christie, Thomas Claiborne, Isaac Coles, Jeremiah Crabb, William Findley, Jesse Franklin, William B. Giles, James Gillespie, Christopher Greenup, William Barry Grove,

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Admission of Tennessee.

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George Hancock, John Hathorn, Jonathan N. Havens, James Holland, George Jackson, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, Andrew Moore, Anthony New, Robert Rutherford, Israel Smith, Richard Sprigg, jun, John Swanwick, Abraham Venable, and Richard Winn.

ADMISSION OF TENNESSEE.

Mr. GILES, from the committee to whom was referred the bill from the Senate for erecting the Territory South of the Ohio into one State, and for directing a census to be taken; also, the resolution of the House of Representatives in favor of admitting that Territory as a State into the Union, and the Message from the President on the same subject, made a report. This report went to change the principle of the bill from the Senate, and, consequently, occasioned considerable debate. The House of Representatives contend that the proceedings of these people had been so far regular as to authorise the admission of them as a State into the Union; but, by the bill sent from the Senate, it was proposed to lay out the Territory into a State, and order a census to be taken, before they could be admitted. This report of the committee conformed the bill to the opinion heretofore expressed in the House. The report was supported by Messrs. GILES, NICHOLAS, MADISON, GALLATIN, VENABLE, W. LYMAN and HOLLAND, and opposed by Messrs. W. SMITH, SITGREAVES, THATCHER, COIT and HARPER.

On motion of Mr. W. SMITH, the yeas and nays were taken three times upon this subject: first, upon the first amendment, which went to alter the principle of the bill, by admitting the State into the Union, instead of directing a census to be taken for the purpose. The yeas were 48, nays 30, as follows:

YEA.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Richard Brent, Nathan Bryan, Samuel J. Cabell, Thomas Claiborne, Isaac Coles, Jeremiah Crabb, Samuel Earle, William Findley, Jesse Franklin, Albert Gallatin, William B. Giles, James Gillespie, Christopher Greenup, William B. Grove, Wade Hampton, George Hancock, Carter B. Harrison, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, James Holland, George Jackson, Matthew Locke, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Anthony New, John Nicholas, Francis Preston, John Richards, Robert Rutherford, Israel Smith, Richard Sprigg, jun., Thomas Sprigg, John Swanwick, Absalom Tatom, Philip Van Cortlandt, Abraham Venable, and Richard Winn.

NAYS.—Benjamin Bourne, Theophilus Bradbury, Joshua Coit, William Cooper, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, William Hindman, John Wilkes Kittera, Samuel Lyman, Francis Malbone, William Vans Murray, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, Zephaniah Swift, George Thatcher, Mark Thompson, Uriah Tracy, John E. Van Allen, Peleg Wadsworth, and John Williams.

The next amendment was the introduction of a clause recognising the right of that State to send

one Representative into that House, until the period of taking the next census all over the Union, and that the laws of the United States should have the same force in the State of Tennessee as in all other parts of the Union.

Mr. MACON moved to strike out one Representative and insert two Representatives, to which he thought they were entitled.

This was opposed on all sides, as giving an advantage to this State over all others, whose representation was fixed in the year 1790. The yeas and nays were taken, when all the members in the House were in the negative except Messrs. FRANKLIN, GREENUP, HOLLAND, MACON and RUTHERFORD, and the motion was, therefore, lost, 62 to 5.

Mr. W. SMITH called for a division of the question, and that part relative to the State being entitled to one Representative, being put, it was carried by the yeas and nays being taken, 41 to 29; the House being divided in the same way as upon the first amendment, except that Messrs. BALDWIN, BRENT, COLES, GILLESPIE, HANCOCK, HEATH, and WINN, who voted in the affirmative on the former question, and Mr. BOURNE, who voted in the negative, were, on this division, out of the House.

The other part of this amendment was carried unanimously, and the bill was ordered to be engrossed for a third reading on Monday.

MONDAY, May 30.

On motion of Mr. W. LYMAN, the resolution of the Senate, communicated to the House on Saturday, relative to the adjournment of the two Houses on Wednesday next, was taken up, and agreed to, and a committee appointed to join a committee from the Senate to notify the PRESIDENT OF THE UNITED STATES that the two Houses intended to adjourn on Wednesday next.

The bill entitled an act for the admission of the State of Tennessee into the Union, was read the third time and passed.

NEXT MEETING OF CONGRESS.

Mr. BOURNE observed, that a motion had already been made, and negatived by a small majority, for appointing a committee to bring in a bill for altering the time of meeting of the next session of Congress. He believed the business which would call the attention of the House in their next session, could not be got through betwixt the first Monday in December and the third of March, particularly as they should then have to determine upon some effectual mode of taxation, in order to meet the necessary expenses of Government. He, therefore, proposed to the House the following resolution:

Resolved, That a committee be appointed to report a bill for altering the time of meeting of the next session of Congress."

This resolution was opposed by Messrs. NICHOLAS, MADISON, and MACON, and advocated by Messrs. BOURNE, W. SMITH, THATCHER, WILLIAMS, CLAIBORNE, and RUTHERFORD. It was carried, there being 15 in favor of it.

A bill was afterwards reported, twice read, and ordered to be engrossed for a third reading to-day. It afterwards received its third reading, and passed. The time of meeting for the next session was fixed on the first of November.

ADDITIONAL APPROPRIATIONS.

Mr. W. SMITH, from the Committee of Ways and Means, to whom was referred the Message of the PRESIDENT relative to additional appropriations necessary for foreign correspondence, reported the following resolution:

“Resolved, That a further sum of \$23,500 be appropriated for the expenses of foreign intercourse for the year 1796.”

Also, a bill making further appropriations for the year 1796. The bill and resolution were read a second time, and committed to a Committee of the Whole to-day.

MILITARY AND NAVAL APPROPRIATIONS.

The House went into a Committee of the Whole on the bill providing appropriations for the Military and Naval Establishments; when,

On motion of Mr. W. SMITH, the blank for the sum for the payment of the Army was filled with \$273,666.

Mr. W. SMITH proposed to fill up the next blank, for the subsistence of the officers of the Army with \$63,480.

Mr. GALLATIN said, he was not ready to vote for this object. It had been usual to appropriate the subsistence of the officers and non-commissioned officers and privates all in one sum. He did not know what were the separate calculations.

Mr. W. SMITH believed that it had been usual to put the two subjects together heretofore, but the Secretary of War had suggested the propriety of placing them under different heads. It was therefore done.

Mr. GALLATIN said, when he objected to this plan of putting the two objects together, it was not merely on account of the arrangement, but because he did not know the amount calculated for the different descriptions. He knew, however, the rations were calculated at 30 cents. He would move to fill the blank with 20 cents, which would be two-thirds of the amount proposed. He would give his reasons for thus filling the blank. It would be found, by a communication from the Secretary of the Treasury at the commencement of the session, that, in the estimate for the Military department, rations were charged 15 cents each, making the whole subsistence for 6,000 men \$367,061; notwithstanding the nominal Army Establishment had been reduced one-half, the total amount of expense was estimated as high as before. The items upon which an increase had been made, were subsistence, hospital, ordnance, and quartermaster's departments, and protection of frontiers. It would be found that, in the second estimate of the Secretary, lately made, rations were estimated at 30 cents each, which made the whole amount of subsistence \$437,762.

This difference in the estimate led the Committee of Ways and Means to an inquiry into the

business, because, as the nominal establishment was decreased from 6,000 to 3,000 men, they had hoped there would have been some decrease of expense also. They received for answer, that rations could not be contracted at Detroit for less than 30 cents each; but though this, by the contract, was the price of rations at that post, they could not suppose they would cost the same at the other posts. It also appeared, from the information received from the Secretary of the Treasury, that the contract which had been made, was upon these terms—to furnish rations either at Detroit at 30 cents, or at Pittsburg at 11 cents, the place of delivery being at the option of Government. It would be seen that there was a difference betwixt those two prices of 19 cents; and he would ask whether any gentleman in that House believed that it would cost 19 cents per ration to transport them from Pittsburg to Detroit? He did not think that transportation would, on an average, cost 9 cents. The distance by land was not 200 miles; and water carriage would reduce it to 20.

It was his opinion, therefore, that they ought not to make this appropriation. It was true, there was an increase in the price of provisions in the Western country, but it was not less true that the rations must be delivered at the prices contracted for. If the gentlemen on the committee thought with him, they would agree to fill the blank with two-thirds of the sum proposed by the gentleman from South Carolina. And this was calculating the whole as delivered at Detroit, though it was well known many of them would be delivered much nearer. He believed the expense of transportation to Detroit would be less than to most of the posts now occupied by the Army between the Ohio and the Lakes. Yet, under the idea of their being delivered at the posts now occupied by the Army, the rations had been estimated at 15 cents; but now they were told they will be charged 30 cents. The information he had given was correct, and, therefore, he should move to fill the blank relative to the subsistence of the officers, with 45,606 in the place of \$63,480.

Whilst he was up, he would mention another reason. It would apply, also, to the rations of non-commissioned officers and soldiers, one-third part of the estimated amount of which will be proper to be deducted, if his motion was carried. He should not have been anxious about this matter, but for one thing. He would remind the Committee of a letter which had been written by the Secretary of the Treasury to the Committee of Ways and Means, in which it will appear that although they had made specific appropriations for each head of expense relative to the Military Establishment, yet, those appropriations had been considered as a general grant for that department. [Mr. G. read the letter alluded to.] The consequence of this was, he said, that if more was granted for any particular purpose than was necessary, the surplus might be expended for any other item in the Military Establishment; therefore, when \$70,000 were voted for the Indian de-

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partment, if the Executive wanted to apply a larger sum for that purpose, they thought they had a right to appropriate to it any excess of appropriation beyond the expenditure for subsistence, or any other of the items for which more might have been voted than was necessary; so that there was no check to the expenditure, except the aggregate amount of all the moneys appropriated for the Military Establishment, and, for that reason, he hoped his motion would be agreed to.

Mr. W. SMITH said, if agreeing to this motion would save the money, it would deserve attention; but, if they were to make the appropriation so small as to embarrass Government, it would be much worse than if they were to vote for a little too much. There would be a certain number of men who must be fed, and he thought they might rely upon the Administration's not giving more for rations than was necessary. But, if the sum voted was too small, what would be the consequence? The rations must be got, be the prices what they may; the men must be fed. Difficulties would arise if the fund appropriated should prove inadequate. He did not see that there would be any real saving by reducing the sum appropriated.

It was true, Mr. S. said, that, in the first estimate, the rations were estimated at 15 cents; but, in the report of the 18th of May, they are estimated at 30 cents. In consequence of this difference, the Committee of Ways and Means had a conference with the Secretary of War and the Secretary of the Treasury on the subject, and they stated that 30 cents per ration would be as low a price as they could be delivered for at Detroit; if the Committee think differently, or that those officers had some improper object in view in raising the sum beyond what was necessary, they will reduce it. He took this item from the Secretary of War, and as he received it, he proposed it. He was not, himself, acquainted with the price of rations either at Pittsburg or Detroit. He believed they must, to a certain degree, depend upon the officers in the departments for such matters of detail, who would not, he trusted, wantonly require too much; if they were not to appropriate enough, the money must still be expended, if wanted; he did not see the necessity of cramping the Executive in all its operations; because, if there should be any abuse of the public trust, by prodigal expenditures or otherwise, those who were guilty of mal-practices would be always liable to detection and punishment.

Mr. BOURNE hoped the blank would be filled up with the sum proposed by the gentleman from South Carolina. It had been stated that rations might be purchased at Pittsburg for 11 cents, but they could not be bought for less than 30 at Detroit, and he thought they could not calculate upon any other price than that, as it was uncertain whether or not the contract would be fulfilled; and if it failed, and the Secretary of the Treasury was obliged to purchase at Detroit, if they calculated the rations at 20 cents only, he would not be able to purchase the necessary provisions

for their men; but if, on the contrary, 30 cents were agreed to, there would be enough in any case, and if the ration could be bought for 20 cents, he did not fear that the money would be expended unnecessarily.

Mr. VENABLE said he should not feel himself justified in appropriating more than was necessary for the object before them; for, if they were not to be guided by a proper estimate, they might as well at once give an unlimited power on the Treasury. All the expenses could not be estimated to be made at Detroit. If one-third of our men were kept at Detroit, he should think it a large number. Why then fix the price as if the whole Army was to be kept there? And, even in that case, 20 cents would be a large appropriation. Why, then, embarrass themselves by making a larger appropriation than was necessary? The Army would be extended on the whole frontier, and at some places rations would be bought cheaper than at Pittsburg.

Mr. DAYTON (the Speaker) observed, that the gentleman from Pennsylvania [Mr. GALLATIN] assumed as undeniable, and established as the foundation of his arguments and objections, what he did not only not admit, but absolutely denied, viz: that the rations of provisions would cost the United States more when delivered at Detroit, than at any other post. He believed there were two or three others at which the price would be higher than at Detroit, and mentioned Michilimackinac in particular. The gentlemen who were for reducing this item of appropriation, had referred to the contract which had been made some time since, and had, at the same time, acknowledged the extraordinary advance in the price of the necessaries of life, even in the interior of the country. The latter event, said Mr. D., was of a nature to excite much fear that the contract would be thrown back upon the United States, owing to the inability it would create in the individuals to fulfil it, and ought, therefore, to prompt Congress to guard against such an exigency, by a more ample provision than would otherwise have been requisite.

The member from Pennsylvania had expressed much wonder that the appropriations were not reduced in exact proportion to the reduction of the Military Establishment. Did not that member know that by the middle of the ensuing month the streams become so low as to render impracticable a transportation by water, and compel them to resort to that by means of pack-horses? Was he not aware of the amazing difference in point of expense between a water and a land transportation, and still more so, where, as in the latter case, horses only, and no carriages could be used?

This inconvenience and expense would have been avoided, if Congress had passed the law, and made a provision, as they might very well have done in the earlier part of the session, in time to enable them to take advantage of the swelling of the rivers, occasioned by the Spring rains; but it was now too late, and the expense of land transportation must therefore be provided for, and

increase the estimate very far beyond that of any former year. There was another unusual and extraordinary source of increase of expenditures in the Military department which seemed to him, Mr. D. said, to be not at all attended to. The transportation to the posts of that heavier kind of ordnance which was calculated for garrisons, together with suitable ammunition, implements, and stores; every one must know that the field artillery attached to a moving Army was not proper for a garrison; and that if it would even answer, the number and quantity with the Army was very far too small. Owing to the increased labor, exertions, transportation, and charges of different kinds in taking possession of the posts, and in marching the troops to their different and distant destinations, he had foreseen that the appropriations for the Department of War could not, in this year, be diminished in proportion to the diminution of the Military Establishment.

Mr. W. SMITH said there was one fact which he forgot to mention. The Secretary of the Treasury informed the Committee of Ways and Means that the contractor would lose money by the contract to deliver the rations at 11 cents at Pittsburg, and it was possible, therefore, that it might not be fulfilled. Gentlemen say—why provide the money if it be not wanted? They seemed to mistake the business; the money was to be borrowed, and if not wanted, it would not be taken. No more would be expended because there was more than sufficient appropriated. There would be no money lying unemployed in the Treasury.

Mr. GALLATIN believed the gentleman from South Carolina [Mr. SMITH] would not deny that his information was correct. The contract was made to deliver the rations either at Pittsburg or Detroit, at the option of Government. To calculate the whole number of rations at 30 cents, was considering the whole Army at Detroit; and, though it be true, that there be one post more distant than Detroit, yet, the greater number were far nearer, and consequently, where provisions would be got cheaper. Therefore, considering the price at Detroit to be the general price, was allowing too much. This, he believed, would not be controverted.

Let us then examine, said he, what will be the price at Detroit. The price at Pittsburg, they had seen, was 11 cents. He had fully attended to what the gentleman from New Jersey [Mr. DAYTON] had suggested, that conveyance could not always be had by water, and therefore it was that he allowed 9 cents for conveyance, for the rations would not cost more than 2 cents each by water.

Mr. G. said there could be only one objection to the allowance of 20 cents per ration, which was, the possibility that the contract which had been made might not be fulfilled. But, he said if they were to make appropriations on contingencies of this sort, he did not know how far they might go; they might suppose other events to take place, which, at present, could not be foreseen. He thought a contract solemnly made

might be depended upon. But, if anything of this sort was to be provided for, it should be done under the head of contingencies, and not under the present head.

He was not afraid, he said, of the officers of the Treasury giving 30 cents for rations which could be got for 20; and if the money they were about to appropriate was to be considered as a specific appropriation for that purpose, he should think less of it. He should have no objection to allow 25 or 30 cents per ration; but, when the Secretary of the Treasury told them that all these appropriations were general grants, and that, therefore, if there were \$100,000 too much under this head, it might be appropriated to any other object mentioned in the bill.

He asked what control they had over the appropriations for the Quartermaster's department, Indian department, or protection of frontiers, but by limiting the sum, which could not be done if they were to appropriate too lavishly for other objects, because the overplus might be applied to any of these. It was on that account, principally, that he wished to confine the present appropriation to what was necessary.

Mr. NICHOLAS said, he should be glad to know what was the price of rations in the Atlantic States. One half of the Establishment would be upon the Eastern waters, and, therefore, the money necessary to be appropriated would depend, in some degree, upon the price of rations there. He thought 20 cents would be a full average price for the whole.

Mr. HAVENS said, that if they were to fix the price too high, it might produce a combination amongst the contractors to advance the price—as he believed there was a greater likelihood of combination than competition amongst them. He knew this was no reason why they should fix the price too low, but he thought it was a consideration which should lead them to vote for the proposition of the gentleman from Pennsylvania.

The original motion was put, and negatived, 34 to 31; and then Mr. GALLATIN's to fill the blank, with \$45,606, was put, and carried.

Mr. W. SMITH moved to fill the next blank, for the subsistence of non-commissioned officers and privates, with \$369,282, which was calculating the rations at 30 cents each.

The question was put, and negatived, 33 to 30.

Mr. GALLATIN then moved to have the blank filled with \$246,188, which was calculating the rations at 20 cents each.

Mr. DAYTON hoped that the sum named would not be agreed to; if it were, he believed that the soldiers of the Army would not be subsisted. He was satisfied that gentlemen who proposed and advocated so scanty and inadequate sums had the same views as he had; but he was, nevertheless, convinced, that so far from promoting economy, they would eventually produce profusion.

He had before said, that in consequence of the late great rise of provisions, a fulfilment of the contract, made with certain individuals, could not confidently be relied upon. He knew, that in the case of failure, the Government could prosecute

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and recover damages from the contractors; but, whilst the prosecution was going on, the Army must eat, and the public must supply them with food at any price. Who would say, that on the spur of the occasion, the public agents, thus suddenly sent out, could purchase rations at or near Pittsburg, at 11, 12, or even 13 cents? What member could, with his present information, calculate and state the prices which would be asked, and must be given, for horses to carry the burdens when the public call should be thus pressing, and people might know and take advantage of the necessity? Who of them could form a just judgment of the expenses for boat and batteaux building, when they should reach the Lakes, where no timber was prepared, nor hands settled and established to build them?

In short, he said, a new scene was opening to their view, in which they had not the benefit of experience and of previous experiment. Some gentlemen seemed to take it for granted that the corps of artillery, and most of the infantry, would be stationed and subsisted in the Atlantic States; but he rather supposed that four-fifths of the infantry, and two-thirds of the artillery, would be dispersed throughout the extensive frontier posts, and not long allowed to sleep and eat on the Eastern side of the mountains.

It had been hinted, in the course of the debate, that the appropriations should be more specific as to the immediate object, but, in his opinion, an alteration of that kind might operate most ruinously. Would it not be absurd to confine the appropriation so strictly to the article itself, that if the provisions or tents of the Army should be destroyed by flood or by fire, they could not be replaced, but the Army must remain without any covering, even though there should be a sufficient surplus or saving from other articles?

It was a happy circumstance, that, in all such cases, there was a liberty of discretion given to make use of the surplus arising from any other appropriations under the same general head, to supply such unexpected wants. Although the calculation made by the gentleman from Pennsylvania was manifestly incorrect, he believed that no member could draw and present an accurate estimate of the sums which would be wanted for this service, and therefore they were left to conjecture only. They ought, therefore, to make a liberal appropriation, because no more would be used than was wanted, and not one cent more would be unnecessarily expended; but, on the other hand, if it should prove inadequate, the Army must abandon their posts, and march back into the country where provisions were produced, to obtain them more certainly and cheaply. This would not only not be desirable, but would be disgraceful.

Mr. DAYTON concluded with saying, that he did not wish to appropriate lavishly, but his sole aim was to avoid any of those serious consequences which would inevitably flow from an ill-judged parsimony; and he should sit down and console himself, under any event, with the reflection, that he had discharged his duty.

Mr. W. SMITH moved to fill the blank with \$360,000, which was carried, 34 to 31.

On motion of Mr. W. SMITH, the blank for forage was filled with \$16,592, and that for clothing was filled with \$70,000, without debate. He proposed to fill the blank for providing horses for cavalry, with \$7,500; when

Mr. BLOUNT observed, that he thought it unnecessary to provide for the purchase of horses, when they had resolved upon reducing the number of troops.

Mr. GALLATIN said he would just notice, that when the full number of horses was kept up, the appropriations for clothing were the same as now, and those for horses were less. The former estimate was \$6,000 for horses; now, \$7,500: so that the more they reduce the Army, the greater was the expense.

Mr. MACON believed there was as many horses now in the service as would complete two companies, and they could not, with any propriety, calculate upon one-half dying. He moved to strike out the item altogether.

The motion was put and negatived, 33 to 26.

Mr. HAVENS said, he did not vote for striking out the item altogether, as he supposed some money would be wanted, but could not think so much as had been mentioned was necessary.

The motion for \$7,500 was put and carried, 34 to 31.

On motion of Mr. W. SMITH, the blank for bounty was filled with \$10,000, and that for Hospital department with \$30,000, without objection. He also proposed to fill the blank for the Ordnance department with \$48,907, when

Mr. GALLATIN said, that this sum was \$11,000 more than the former estimate; \$1,000 of which was owing to an increase of rent. The other additional item of \$10,000 was for contingent expenses; but, as they had a distinct head for contingent expenses, he thought that the contingencies would be best, all of them, placed under that head. He therefore moved to have the blank filled with \$38,907.

Mr. WILLIAMS proposed \$40,000, which was carried.

Mr. W. SMITH proposed to fill the blank for the Indian department with \$70,000.

Mr. GALLATIN said, it would be recollected that they had already made two appropriations under this head; the one for establishing trading-houses with the Indian tribes, the other for carrying into effect several Treaties. On inquiry what reason there was for this appropriation, he could only find one, viz: that a Treaty was expected to be held in Georgia, at which 3,000 Indians were to be present. He had supposed this expense was to have been borne by Georgia, but it was alleged that a part of it would fall on the United States.

The motion was put and negatived, 33 to 26; when

Mr. W. SMITH proposed \$60,000. He would mention, that the Secretary of War had been called upon to give a reason why so large a sum should be appropriated; when they were

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told of the Treaty which the gentleman from Pennsylvania had mentioned, and that it would be necessary to have a large store for the purpose of feeding and clothing the Indians who attended it. The motion was then put and carried, 31 to 28.

Mr. W. SMITH moved to fill the blank for the Quartermaster's department with \$250,000.

Mr. GALLATIN said, it would be remembered, that in the estimate at the opening of the session, this item was calculated at \$200,000. The reason given for this advance, was, that the expense of removing stores, ordnance, &c., to new posts, would be very considerable; but, it would be recollected, that \$200,000 only were appropriated for that purpose in the time of war, when the Army was liable to be removed very often. The present estimate was for a Peace Establishment, when their men, once removed to the new posts, would be stationed; and the appropriation, instead of for 6,000 men, was now only for 3,000. He moved to insert \$200,000, instead of \$250,000.

Mr. BLOUNT said, he supposed the taking possession of the posts was contemplated when the first estimate was made. It was then known the British had stipulated to surrender them on the 1st of June.

Mr. W. SMITH said, it was not certain when the first estimate was made, whether that House would have ratified the Treaty; and, if not ratified, the posts would not have been got. The increased calculation was owing to the expense in transporting ordnance, stores, &c., to the posts.

Mr. ISAAC SMITH said, it would require more cannon for one of those posts, than were required by all the Army.

Mr. BLOUNT said, they had had sufficient proof to lead them to believe, that the PRESIDENT did not think that House had the power mentioned by the gentleman from South Carolina, and, therefore, he doubted not but the first estimate was made with reference to the expense of taking possession of the posts.

The motion for \$250,000 was put and negatived, 31 to 26; when \$200,000 was put and carried.

Mr. W. SMITH moved to fill the blank for contingencies of the War Department with \$30,000; which was carried without opposition. He then proposed to fill the blank for the defence and protection of the frontiers with \$150,000.

Mr. GALLATIN said, he certainly wished the frontier to be protected, but he could not think so large a sum necessary for that purpose. The sum last year appropriated was \$130,000; and now we had peace with the Indians, which was secured not only by a Treaty with them, but by Treaties with Great Britain and Spain, he could not account for an increased expense.

The motion for \$150,000 was put and negatived; \$130,000 was then proposed and carried, 34 to 33.

Mr. W. SMITH proposed to fill the next blank, for the completion of the fortifications, &c., at West Point, with \$20,000.

Mr. NICHOLAS inquired if there was any law on this head?

Mr. W. SMITH said, there was an act to authorize a provision for this purpose, but that act had expired. He believed, however, it might properly come in there. This expense, he was told, was necessary to make the posts tenable, and that if no money was expended, the fortifications would be lost. He believed this item might properly be considered as a part of the Military Establishment.

Mr. NICHOLAS said, he did not object to the propriety of the expense, but to the manner of introducing it. It would apply to New York as well as West Point. He considered the admission of West Point as the admission of a principle to which all the surplus appropriations might be applied. All the fortifications, he said, were in the power of the Executive; but, as they had had a Committee appointed on the business, whose report they had considered, he thought they should act consistently. He therefore moved to strike out the clause.

Mr. WILLIAMS hoped this item would not be struck out, and that the PRESIDENT would be enabled to extend aid to the fortifications at New York; if not, the works would go to decay.

Mr. VAN CORTLANDT said, that fortifications ought to be attended to, and that he should vote for them.

Mr. GILES hoped the motion would prevail. There had been a Committee most of the session, to consider the subject of fortifications. If these fortifications stood in need of repair, the PRESIDENT should have given the information to that Committee. He thought the item improper in the present bill.

Mr. GALLATIN believed the gentlemen from Virginia were mistaken. The Committee which had been appointed was to consider the fortifications of our harbors only. The works at West Point were of a different description, and the estimate included not only the completing of the fortifications, but the building and repairs of barracks and stores which had been destroyed. The present item could not extend to fortifications in general, as had been apprehended; for, though the Secretary of the Department does not confine the money appropriated to one object—to that particular purpose—yet, he cannot expend it on any object which was not contained in the act of appropriation. He moved to add "magazines, storehouses, and barracks." Agreed to and also the sum.

Mr. W. SMITH then moved to fill the blank for the fortification of forts and harbors with \$50,000.

Mr. GALLATIN said, this item he should move to strike out. A committee had been appointed, and had reported on this subject, and that it was not necessary to attend to it at present, as there was a surplus of \$23,000 unexpended. If they were to agree to the present sum, it would be appropriating an additional sum of \$50,000 for the same object; he hoped, therefore, that it would be struck out.

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Mr. W. LYMAN was in favor of striking it out.

Mr. WILLIAMS hoped it would be agreed to, on the ground of the necessity of some attention being paid to the works at New York.

Mr. DAYTON was in favor of striking out this item altogether, as there really was not money to spare for objects not essential. If any particular harbor had been, or could be mentioned, the Committee might better be enabled to judge whether it would be fit, at this time, pressed as they were for resources, to make an appropriation for fortifying it, and how much. But, as he knew of none, and believed there were no such, he should certainly be opposed to appropriating a single shilling for this purpose. He meant not to say, that there were not ports in the United States which might be advantageously fortified, but only, that this country was not yet in a situation to justify their encountering such an expense, especially as it did not appear to be immediately necessary.

The motion for striking out was put, and carried.

Mr. W. SMITH moved to fill the blank for the pay of officers, seamen, and marines, with \$118,025.

Mr. NICHOLAS hoped this item would be struck out. It was certainly an expense for which there was no occasion. He did not wish to see men raised when they could be of no service. The frigates, he said, could not be fit for service before the next session. He hoped, therefore, no opposition would be made to the striking out of the clause.

Mr. W. SMITH said, they had authorized by law the building of three frigates, and it was wished that they should go into service the present year. If the whole sum was not appropriated, there would certainly be a necessity for a part of it.

Mr. NICHOLAS moved to strike out the item as it stood, and insert, "the pay of the captains of three frigates."

Mr. MACON believed these were the only officers at present appointed.

Mr. HAVENS wished gentlemen to say why these captains should be paid at all. He believed that building of ships was not their business, and that these places were at present mere sinecures. He should, therefore, vote against the amendment.

Mr. W. SMITH said, it would be necessary to add subsistence as well as pay of three captains, and moved to fill the blank with five thousand dollars; which, after a few observations was agreed to.

On motion of Mr. W. SMITH, the blank for military pensions was filled, without opposition, with \$114,259.

The Committee then rose and the House entered upon the consideration of the amendments which had been made, when all were agreed to, except that relative to the subsistence of the non-commissioned officers and privates.

Mr. GALLATIN moved to strike out three hun-

dred and sixty thousand dollars (which had been agreed to in a Committee of the Whole) and to insert two hundred and forty six thousand, one hundred and eighty eight dollars, the amount of rations at twenty cents each.

After a few observations the motion was put, when there appeared for it, 32, against it, 31, when the SPEAKER declared it not carried.

It was then moved to insert three hundred thousand dollars, instead of three hundred and sixty thousand dollars, and it was carried, 36 to 33.

Mr. GALLATIN moved to strike out the words "empowering the PRESIDENT to borrow the necessary money," &c., and to insert six hundred thousand dollars. He mentioned his reason. They had provided for the payment of all the anticipations which had been obtained from the Bank and he wished to have some check on that head in future. By an official letter, it appeared, that there was a deficiency of one million, three hundred thousand dollars betwixt the receipts and expenditures of the present year, four hundred thousand dollars of which sum, to wit: the instalment due to Holland had been provided for by the late bill for paying the Bank, which reduced the deficiency to nine hundred thousand dollars; they had also given power to borrow three hundred thousand dollars for the purpose of foreign intercourse; this would bring down the sum to six hundred thousand dollars. The words which he moved to be struck out had always been used heretofore, because the anticipations had heretofore been continued from year to year; but now, having provided for them, it was not necessary to give any further power to borrow than for the deficiency above mentioned. He would observe that the Commissioners of the Sinking Fund had already power, in case the revenues came in too slowly, to borrow every year one million of dollars. He hoped the amendment would therefore take place.

Mr. W. SMITH did not believe it absolutely necessary to retain the whole; he was therefore not anxious about it. As the gentleman from Pennsylvania [Mr. GALLATIN] had stated, there was an apparent deficiency of one million three hundred thousand dollars; that is, the probable expenditures would fall short of the probable receipts by that sum; four hundred thousand dollars had already been provided for by the bill for the payment of certain debts of the United States; the deficiency was, therefore, reduced to nine hundred thousand dollars. They had authorized a loan in the bill for providing for foreign intercourse, for three hundred and twenty thousand dollars, which deducted from the sum last mentioned, would reduce it to five hundred and eighty thousand dollars; but there was a further sum of twenty-three thousand, five hundred dollars to be appropriated for foreign intercourse, which must either be added, or a loan singly authorized for it; he thought it best, in order to include contingencies, to make it six hundred and fifty thousand dollars.

Mr. GALLATIN had no objection to six hundred and fifty thousand dollars; which was agreed to.

The bill was then ordered to be engrossed for a third reading to-day.

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Expense of Foreign Intercourse.

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SUNDRY BILLS.

The Senate's amendments to the bill for providing passports for ships and vessels of the United States, were taken up and agreed to.

The amendments of the Senate to the bill for suspending the tax on snuff were taken up and disagreed to, there being only eighteen gentlemen in favor of them. They went to a revival of the tax, and, instead of allowing six cents per pound drawback, to allow one half cent per pound.

The amendments of the Senate to the bill regulating the grants of land appropriated for military services, &c., were taken up. They were, on motion, referred to a select committee, who afterwards made a report, recommending it to the House to agree to all the amendments, except the last. The amendments agreed to went to change the plot of land appropriated. The amendment disagreed to, was one which went to the striking out of the clause allowing those officers and soldiers who have already located their warrants in a certain district of country, to remain upon the land so located and improved.

Mr. VENABLE, from the committee appointed to confer with the Senate, on the subject of disagreement between the two Houses on the bill for suspending the tax on snuff, reported that the Senate had receded from their amendments.

The amendments of the Senate to the bill for defraying the expenses of trials during the late insurrection, for regulating the allowance to witnesses, jurors, &c., were read and agreed to. The Senate struck out the marshal, and the clause relative to the district attorney of Kentucky, and struck one dollar out for an additional allowance per day to witnesses, and inserted fifty cents.

The amendments of the Senate to the bill limiting the time for allowing a drawback on domestic spirits, &c., were agreed to.

The disagreement of the Senate to a part of bill for admitting the State of Tennessee into the Union, was read. The House insisted upon their amendment, and a committee of conference was appointed.

FOREIGN INTERCOURSE.

On motion of Mr. W. SMITH, the House went into a Committee of the Whole on the bill making further appropriations for foreign intercourse for the year 1796, in consequence of a Message received from the PRESIDENT, with an estimate, which, amongst other things, contained the expense of replacing two Ministers Resident at Madrid and Lisbon by two Ministers Plenipotentiary, when he moved an additional section to this effect:

"That there be further appropriated towards defraying the expenses of foreign intercourse, a sum not exceeding 23,000 dollars, in addition to the sums already appropriated."

Mr. NICHOLAS wished to know the use of this additional expense. He did not know why we should send different ministerial characters abroad from those we have at present. He knew of no necessity for this increased expense, and he did not think it could be justified. Perhaps he was

wrong in objecting to it; but it appeared to him an unnecessary expense, and therefore an improper one.

Mr. W. SMITH said, he had no other information than that contained in the Message of the PRESIDENT, which lay on the table. This Message had been referred to the Committee of Ways and Means, and they had brought in a report in conformity to that Message. If gentlemen were satisfied that the PRESIDENT had not the power to advance the grade of our foreign Ministers as appeared to him necessary, they would probably withhold the appropriation. But he believed no gentleman could say what was necessary in this respect, as well as the PRESIDENT himself.

Mr. GALLATIN had no doubt but the PRESIDENT had the power of appointing Ministers, Ambassadors, &c., and they had no control over that power but that of appropriation, which was a good security against the abuse of the power, as without an appropriation, such appointments could not be carried into effect; and it was proper, before they made an additional appropriation of 18,000 dollars, which would become an annual expense for an additional grade of two Ministers, that they should know that there was some reason for the advance. He thought the gentlemen who had hitherto resided at foreign Courts had done their business very well, and he saw no reason for this additional expense.

Mr. HARPER believed the Minister we now had at London was a Minister Plenipotentiary; and whatever we might think of the distinctions between Ministers Plenipotentiary and Ministers Resident, however childish and unimportant it might appear to us, in the Courts of Europe it was a thing of consequence that Ministers of a proper grade were sent to them. The Courts of Madrid and Lisbon doubtless thought themselves as much entitled to respect from this country as the Court of London. Their Ministers Resident, he believed, were not treated with on any important business; when a Treaty was to be negotiated, men of higher rank must be sent to them. The PRESIDENT was therefore the proper judge of what was necessary on this head.

On taking the question, there was a majority against the clause moved by Mr. SMITH; but on that gentleman's requiring the Committee to be counted, it was found there was not a quorum; the members without the bar being called in, and the matter being again stated, there appeared 28 for the clause, and 28 against it; the Chairman decided in the affirmative.

The Committee then rose and reported the bill; and two motions being made, the one for taking up the consideration of the amendment, and the other for adjournment, the latter prevailed.

TUESDAY, May 31.

The bill for making appropriations for the support of the Military and Naval Establishments for 1796, was read the third time and passed.

The Senate informed the House, by their Secretary, that they had resolved that the bill au-

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thorizing the Secretary of State to lease certain salt springs in the Northwestern Territory do not pass; that the bill authorizing an experiment to obtain an uniform principle for the regulating of Weights and Measures be postponed till next session; and that they recede from their amendments to the bill for admitting the State of Tennessee into the Union.

A bill from the Senate providing for a more general promulgation of the laws of the United States, and the repealing a former act, was read and referred to a select committee.

On the motion of Mr. W. SMITH, the House resolved itself into a Committee of the Whole on the bill authorizing the PRESIDENT OF THE UNITED STATES to lay, regulate, and revoke embargoes during the recess of Congress; which was agreed to, and ordered to be engrossed for a third reading.

SALE OF PRIZES.

An amendment of the Senate to the bill for preventing the sale of prizes in the ports of the United States, was read. It was to insert words of this effect at the end of the first section, "providing that nothing in this law shall operate against any existing Treaty." The consideration of this amendment was not gone into, but a motion was made by Mr. VENABLE, and supported by MESSRS. MADISON, GALLATIN, GILES, SWANWICK, NICHOLAS, and W. LYMAN, to postpone the consideration of this bill till the 1st of November next, on the ground that the measure was not necessary; that the cause assigned for it, the probability of a war between Great Britain and Spain was not likely to happen, and that, as it approached very nearly to an encroachment upon existing Treaties, it might give offence to some of the belligerent Powers with whom they desired to be on good terms. The postponement was opposed by MESSRS. BOURNE, SITGREAVES, W. SMITH, and GILBERT, insisting that the bill was a necessary and prudent measure, in order to provide against the contingency abovementioned, and having already determined to pass the bill, the amendment from the Senate making no difference in the principle, they trusted the House would not be so versatile as now to postpone it. It was, however, agreed to be postponed; the yeas and nays being taken, on motion of Mr. W. SMITH, stood yeas 40, nays 34, as follow:

YEAS.—Theodorus Bailey, Abraham Baldwin, David Bard, Thomas Blount, Richard Brent, Nathan Bryan, Dempsey Burges, Thomas Claiborne, Isaac Coles, Samuel Earle, William Findley, Albert Gallatin, William B. Giles, James Gillespie, Christopher Greenup, Wade Hampton, George Hancock, Carter B. Harrison, John Hathorn, Jonathan N. Havens, Daniel Heister, James Holland, George Jackson, William Lyman, Samuel Maclay, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, John Nicholas, John Richards, Robert Rutherford, Israel Smith, Richard Sprigg, jr., John Swanwick, Absalom Tatom, Philip Van Cortlandt, Abraham Venable, and Richard Winn.

NAYS.—Fisher Ames, Benjamin Bourne, Gabriel

Christie, Joshua Coit, William Cooper, Jeremiah Crabb, George Dent, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Roger Griswold, William B. Grove, Thomas Henderson, William Hindman, Samuel Lyman, Nathaniel Macon, Francis Malbone, John Reed, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, Thomas Sprigg, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, and John Williams.

LANDS FOR MILITARY SERVICES.

The Senate, by message, informed the House that they insisted upon their amendment to the bill regulating grants of land for military services.

Mr. SITGREAVES moved, that the House do insist upon their disagreement, and appoint a committee of conference; but, after a few observations, a motion was made to recede, and carried, 33 to 27.

The Senate's amendments to the bill for the relief of distillers in certain cases, were read and agreed to.

FOREIGN INTERCOURSE.

The House took up the bill making further provision for foreign intercourse; when the clause reported from the Committee of the Whole, founded on the PRESIDENT'S Message, being under consideration—

Mr. W. SMITH said, that objections had been made to the advancing their Ministers Resident to the grade of Ministers Plenipotentiary at Madrid and Lisbon; the sums requisite in consequence thereof, and 20,000 dollars proposed to be appropriated for the expenses likely to be incurred in obtaining redress for the spoliation committed upon the property of our merchants, formed the objectionable items in the estimate. The objections urged yesterday were chiefly, however, against the advanced grade of the Ministers. To obtain the Treaty with Spain, there had been a Minister Plenipotentiary sent to that country; having made a Treaty with Spain, it would appear extraordinary to send there in future only a Minister Resident. He believed it was impossible to preserve perfect harmony with that nation, after sending Ministers Plenipotentiary to London and Paris, unless a Minister of similar grade were sent there also. Indeed, he saw no reason which would apply to the former, that would not equally apply to the latter. With respect to Portugal, some of the gentlemen in opposition had been very loud in that House, two years ago, in praise of that country, on account of the friendship shown us at that period; he believed it was of importance to cultivate a good understanding with Portugal, and if only a Minister Resident were sent there, whilst Ministers Plenipotentiary were sent to the other European Powers, she would probably consider herself as slighted. He was of opinion that a Commercial Treaty with Portugal would be an advantageous thing to this country; but, were it only on account of her congenial interests with us in respect to the Algerines, it was desirable to keep on the best terms

with her. He thought, therefore, this proposition ought to be adopted. The Executive was certainly the best judge of what was proper upon such occasions, and the House ought to have confidence in his discretion and judgment. He had sent an estimate to the House, it had been referred to the Committee of Ways and Means, they had reported in favor of it, and he hoped the proposition would be agreed to. He concluded by calling for the yeas and nays.

Mr. MACON observed, that the gentleman who just sat down had said, that Spain had refused to treat with this country until a Minister Plenipotentiary was sent there. He should be glad to know where he had the information, as he had not before heard of it.

Mr. W. SMITH replied, that he had his information from papers on the table, which were open for the inspection of all who chose to take the trouble of examining them.

Mr. MACON said, the business had hitherto been done by Ministers Resident, and he had heard no complaints; he thought, therefore, that now when we were involved in debt for the unavoidable expenses of Government, they ought not to go into measures which would increase those expenses in every quarter. He was glad that the yeas and nays had been called for.

Mr. FINDLEY said, he had voted against this measure in a Committee of the Whole, and he thought he was right in doing so; but he now was of opinion, that, except that House had information sufficient to convince them the appropriation was unnecessary, they ought to grant it. He wished as much as any one to save the money of the public; but he believed our Government was, in some degree obliged to conform to European practices. If we had Ministers Plenipotentiary at one Court, he did not know where to draw the line. He believed they should do best in leaving the Executive to settle this matter.

Mr. THATCHER said, if he understood the business, the Executive had appointed two or three Ministers Plenipotentiary to reside at foreign Courts, where before we had only Ministers Resident. The reasoning of gentlemen who objected to this was, that the business had been as well done by Ministers Resident as it could be done by Ministers Plenipotentiary, and, therefore, that these Ministers of a higher grade should not be sent, because it would cost 18 or 20,000 dollars a year more. Gentlemen had said, peremptorily, that there was no occasion for this expense; and if the President had appointed them, they would not pay them. He thought this language improper, because he believed such considerations were wholly of an Executive nature.

Mr. GILES said, he should vote against the appropriation. He was willing to allow that the right was with the Executive to appoint Ambassadors, Ministers, &c. That right had been exercised, and that House must exercise its rights also, by judging of the propriety of all appropriations which they were called upon to make. He was against all intimate connexion between this country and foreign Powers. He had always

voted, and should continue to vote, for every measure which would have a tendency to keep us more retired from European nations; but if this business of sending Ministers was encouraged, it would be the means of involving us in European politics. The true policy of Americans was to live to themselves. He would never, therefore, increase any taste which might seem to be advancing for sending diplomatic characters to Europe. He thought the present a singular demand. Some days ago, they had been called upon for an appropriation for foreign intercourse, without any estimate of what was necessary, and they had appropriated 20,000 dollars. The President now told them they had not gone deep enough into the public purse; that they must grant him \$23,000 more. If the estimate had come forward sooner, he would have given it the consideration which it required; but, coming as it did, he should vote against it.

Mr. BOURNE did not think the question before them was, whether diplomatic agents should be sent to Europe or not? the only question was, whether, or not, the House would appropriate the money necessary to enable the Executive to replace certain Resident Ministers by Ministers Plenipotentiary? The President was of opinion that this was necessary to be done; and was it necessary that he should send to that House all the papers from which he formed his opinion? He believed no one would insist upon this. The President was the Constitutional agent for this purpose; nor did he believe the framers of the Constitution ever conceived that that House should interfere in the direction of what foreign Ministers were proper to be appointed.

The gentleman last up had stated that no estimate had been made before the present; he believed there was an estimate early in the session. It was true that it was not specific. When the appropriation was made the other day for 20,000 dollars, more was refused, because there was no estimate; the Executive had now sent an estimate, and shall we refuse to accede to it? This conduct appeared to him most unprecedented and extraordinary.

Mr. GALLATIN was very far from agreeing with the gentleman from Rhode Island [Mr. BOURNE] that to discuss the propriety of sending a certain description of Ministers to any country, was unconstitutional. He believed, before they consented to the expenditure of money, they should know that it was necessary; but that gentleman seemed to be of opinion, that, because the President of the United States asked it, it must be right. He knew there was a clause in the Constitution which gave the President power to appoint Ambassadors, Ministers, &c., by and with the advice of the Senate; nor did he care much about the construction given to this clause, provided that House was permitted to enjoy its right of judging of the propriety of all grants of money. He hoped no gentleman wished to deprive them of that power.

He believed the House did not seek for the present question. A demand was made upon them

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for money for certain purposes, and they conceived they had a right to inquire into the necessity of this additional expense. They had appropriated the usual sum of 40,000 dollars for foreign intercourse; they had done more; on account of the present situation of Europe, they had appropriated an additional 20,000 dollars. And now they were called upon for 23,000 dollars more. He knew if they did not give it, it could not be expended. The gentleman from Rhode Island was mistaken when he said an estimate had before been given in; they had received no estimate before the present; the estimate having been sent to them, they had a right to discuss it. It naturally brought the question before them, whether it was necessary to replace our Resident Ministers with Ministers Plenipotentiary, and in voting on this question, he should vote according to the information which he had on the subject, and not as his colleague [Mr. FINDLEY] proposed, according to the information he had not.

The only argument brought forward to support this change was that of the gentleman from South Carolina, [Mr. W. SMITH.] He told them that we could not have a Treaty with Spain without a Minister Plenipotentiary. But, he would ask, whether negotiations were not entered into by Ministers resident, who were clothed only with the character of Commissioners; and whether the Treaty was not concluded by a Minister Plenipotentiary to another Court, who went to Spain for that specific purpose, not with a permanent character, but as an Envoy Extraordinary?

But it seemed we were to have a Minister Plenipotentiary in Spain, because we have treated with them, and one in Portugal, because we want to treat with them. He would ask, what Minister we were to have in Holland, with whom we had a Treaty and extensive connexions? It would appear by the papers on the table that our present resident Minister at Lisbon [Mr. Humphreys] was to be Minister Plenipotentiary at Madrid, with an addition of \$4,500 salary and \$4,500 for outfits; that our present resident Minister at the Hague [Mr. Adams] was to be Minister Plenipotentiary at Lisbon, with also an addition of \$4,500 salary and \$4,500 for outfits; and that there was no provision whatever in the estimate for any Minister either resident or plenipotentiary in Holland. Of all those things, however, the PRESIDENT was the best judge, and he would not even have mentioned them had not the estimate sent to them brought the discussion of the details. But of one thing, however, that House had a right to judge, to wit: the expense. It may be useful to send Ministers Plenipotentiary to those two Courts; but, unless he had information which he had not, and felt what he did not feel, that it was necessary to send them, he must be governed in his vote by the knowledge the House had of the situation of our finances. Taking that into consideration, the numerous objects of useful expenditure, the many necessary calls for money, and above all, the acknowledged deficiency of \$900,000 for the current expenses of the present year, he was clearly of opinion that the present year, he was clearly of opinion that we ought not—nay, that we could not, appropriate

more than \$60,000 for our diplomatic department. A deficiency of \$900,000 being officially communicated to them by the Secretary of the Treasury, they must know that every sum they voted was an addition to our debt. However useful the appointment of Ministers Plenipotentiary, he did not feel its necessity, so far as to justify his giving his vote in favor of an increase of the Public Debt.

Mr. HOLLAND said, he could see no necessity for appropriating this money; and, not seeing the necessity, he should not vote for it.

Mr. W. SMITH agreed with the gentleman from Pennsylvania, [Mr. GALLATIN] that they had power to refuse this money; yet, undoubtedly, when the PRESIDENT informed the Legislature that such a sum was wanted for similar purposes, it was the duty of the House to grant it, unless there were very strong reasons indeed to induce a contrary conduct. The gentleman from Pennsylvania had confessed he had no information on the subject, yet he would vote against granting the money. Mr. S. thought the conclusion of the colleague of that gentleman [Mr. FINDLEY] more just, who said he should vote for it because he had not information sufficient to convince him it was not necessary.

The gentleman last up had not positively said that these Ministers Plenipotentiary were unnecessary, but that the Executive had sent no information to prove that they were necessary. It was true the Executive had not sent to them the correspondence which had passed upon the subject, which had induced him to form the opinion of their necessity. Was it expected he should have done so? He supposed this kind of information was not to be expected; they must, therefore, take it for granted that the PRESIDENT, who had all the requisite information, was the best judge of the propriety of the measure; and without very strong evidence of the contrary, he did not see how they could be justified in withholding the grant.

The gentleman from Virginia [Mr. GILES] had said it was our wisest policy to live retired from foreign nations. This might have been properly said at the time they were appropriating money for foreign intercourse generally; but that question had been determined. We had already determined to maintain our foreign connexions, and now the gentleman from Pennsylvania [Mr. GALLATIN] and the PRESIDENT were at issue as to the proper grade of Ministers to be employed—the only question was on the best mode of carrying on our foreign relations.

With respect to the estimate, he must again observe, that there had been a sum of \$45,000 at the disposal of the Executive, which was applicable to the purposes of foreign intercourse, and, therefore, might have been appropriated towards this advanced grade of Ministers. Instead of this sum of \$45,000, which was diverted to another purpose, the House had only given the Executive, by the act passed, \$20,000; so that it was necessary for him to require the additional sum of \$23,500. A gentleman had observed that it was

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not owing to our not having Ministers Plenipotentiary at the Court of Spain, but because they had not the title of Commissioners that that Court refused to treat with them. But this was a mistake. It appeared from the correspondence of the Commissioners themselves that Spain had taken umbrage because a Minister Plenipotentiary was not sent there, and in consequence of that Mr. Pinckney was sent with that rank and as Envoy Extraordinary. The gentleman had said that the Minister resident at the Hague was to be removed as Minister Plenipotentiary to Lisbon. But what was there objectionable in that? Might not the PRESIDENT, if he thought the residence of a Minister at the Hague not immediately necessary, and, if he wanted to send one to Lisbon, to inquire whether the Court of Portugal was disposed to make a Commercial Treaty with us, take him from thence and send him to Lisbon? Motives of economy might lead to this arrangement, which, perhaps, was only a temporary one. He believed it was not necessary that the PRESIDENT should lay the facts which had induced him to do this before that House. If gentlemen wished to prevent the PRESIDENT from sending such Ministers to foreign countries as he deemed most advisable, they would act accordingly, and refuse the present appropriation; but, for himself, he was satisfied that in order to administer this Government on its true principles, and to enable the Executive to conduct our foreign relations in the manner most beneficial to the country, it was right and proper for the House to entertain a liberal confidence in him, and not to withhold the moneys required for those objects, unless the refusal was warranted by much stronger reasons than had been advanced.

Mr. TRACY said, that this question presented itself to him in a peculiar point of view. When they granted \$20,000 some days ago for foreign correspondence, great complaints were then made that there was no estimate before them, and a larger sum was refused on that ground; but now, when the PRESIDENT had sent them an estimate, it was objected to. Was it the business of that House, he inquired, to take up such things by pounds, shillings, and pence? He thought it was not. The gentleman from Virginia [Mr. GILES] wished to restrict our foreign correspondence, though he knew that was a power placed in the Executive. He believed if the Executive thought it was necessary to send a hundred Ministers to Europe, and called upon that House for appropriations, it was necessary and proper they should make them.

The gentleman from Pennsylvania [Mr. FINDLEY] had very well observed that he had not sufficient information on the subject to say such Ministers were not necessary, and, therefore, he should vote for them; and he thought any man, who thought he was a competent judge of this business, must have a great degree of arrogance. If the Executive, indeed, were to show an unwarrantable extravagance in the exercise of his power, they might certainly put a check upon him; but did any one ever suppose that they

could determine whether a Minister Resident or a Minister Plenipotentiary should be employed to any Court of Europe? Such a thing could not and ought not to be done.

Mr. SWANWICK thought the only difficulty was where they should get the money. When the bill appropriating money for foreign intercourse was passed, money was directed to be borrowed at six per cent.; but now he supposed money could not be got at that rate, since they had agreed that six per cent. stock might be sold under par.

Mr. THATCHER believed the question was not how to get money, but the appropriation of money for a particular object, which was quite a different subject. If a sum of money were due, and they ought to appropriate for it, it was not then the time to inquire where it was to come from. Another time was proper for discussing that question. Mr. T. saw no more right that that House had to withhold the present appropriations than they had to withhold the salaries of the Judges. At least it struck him in this point of view. If he was wrong he should stand corrected.

Mr. VENABLE inquired if there were not \$20,000 in the present estimate on account of Mr. Bayard's agency to London? [He was informed there was.] It did not appear to him that they were appropriating for Ministers, but for an object which did not come under the head of foreign intercourse, viz: for the expense of paying British law-suits on account of spoiliations on the property of our merchants. He, therefore, felt himself at perfect liberty to refuse his assent to the appropriation; nor did he think it arrogance to do so. He thought there was too great a disposition in this Government to increase expense, and he felt himself justified in using his endeavors to restrain it.

Mr. HEATH spoke in favor of the appropriation.

The question was taken by yeas and nays, and carried—39 to 25, as follows:

YEAS.—Fisher Ames, Benjamin Bourne, Richard Brent, Dempsey Burges, William Cooper, George Dent, William Findley, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Nicholas Gilman, Henry Glen, Chauncey Goodrich, Roger Griswold, William B. Grove, John Heath, Thomas Henderson, William Hindman, Samuel Lyman, Francis Malbone, Frederick A. Muhlenberg, Wm. Vans Murray, Francis Preston, John Reed, John Richards, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, Philip Van Cortlandt, Peleg Wadsworth, and John Williams.

NAYS.—Lemuel Benton, Nathan Bryan, Joshua Coit, Samuel Earle, Albert Gallatin, James Gillespie, Wade Hampton, Carter B. Harrison, John Hathorn, Jonathan N. Havens, Daniel Heister, James Holland, George Jackson, Matthew Locke, Samuel Maclay, Nathaniel Macon, John Milledge, Anthony New, John Nicholas, Israel Smith, Richard Sprigg, jun., Thomas Sprigg, Absalom Tatom, Abraham Venable, and Richard Winn.

CONTESTED ELECTION.

The House again resumed the consideration of the report of the Committee of Elections, to

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Contested Election, &c.

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whom was recommitted the petition of MATTHEW LYON, complaining of an undue election and return of ISRAEL SMITH to serve as a member of that House. The report (which had twice before been under consideration, but no conclusion come to upon it) was in the following words:

"That it appears by the deposition of the Town-Clerk of Hancock, that there were seventeen persons in the said town who were entitled to vote; twelve of whom are stated to have been admitted in that town, and five in other towns.

"That, by a like deposition of the Clerk of Kingston, it appears that there were in that town nineteen persons; seventeen of whom had been qualified in that town, and two in other towns.

"That, it does not appear that the warrants were withheld from the said towns by the Sheriff from any fraudulent intention, but the failure was accidental as to the town of Kingston; and the warrant was not sent to the town of Hancock, because the Sheriff believed they had not voted at the first meeting."

And when the report was first under consideration, it was amended by adding a resolution to the following effect:

"That, as there appears to have been a sufficient number of qualified voters in the towns of Hancock and Kingston to have changed the state of the election, *Resolved*, That Israel Smith was not duly elected, and is not entitled to his seat in this House."

This report occasioned considerable debate. It was defended by MESSRS. HARPER, SITGREAVES, W. SMITH, and N. SMITH, principally on their being votes sufficient in the above two towns to have changed the election if they had voted for the petitioner, and on the necessity of establishing it as a principle in elections that every town should have notice of an election. It was opposed by MESSRS. VENABLE, (the Chairman of the Committee of Elections,) GALLATIN, NICHOLAS, GILES, W. LYMAN, and FINDLEY. They admitted the possibility but denied the probability that the 36 votes in these two towns would have changed the fate of the election. They said there was every reason to believe the contrary; that Mr. SMITH had a majority of 21 votes; that 15 of the voters in Hancock and Kingston had voted for Mr. SMITH at the former election; that Mr. LYON, with all his endeavors to procure them, had only brought forward a petition from twenty of these persons, who declared they would have voted for him, which, if they had done, and none had voted for Mr. SMITH, he (Mr. S.) would still have had a majority of one vote. But there were affidavits from seven of these voters, declaring they would have voted for the sitting member; seven others of them refused to take any part in the dispute; and two of the voters were absent at the time of the election, and could not have voted either way.

The vote was at length taken on motion of Mr. W. SMITH, and stood, yeas 28, nays 41, as follows:

YEAS.—Benjamin Bourne, Joshua Coit, George Dent, Samuel Earle, Abiel Foster, Dwight Foster, Ezekiel Gilbert, Henry Glen, Chauncey Goodrich, Roger Griswold, Robert Goodloe Harper, William Hindman, Aaron

Kitchell, Matthew Locke, Samuel Lyman, John Reed, Samuel Sitgreaves, Jeremiah Smith, Nathaniel Smith, Isaac Smith, William Smith, Zephaniah Swift, George Thatcher, Richard Thomas, Mark Thompson, Uriah Tracy, John E. Van Allen, and Peleg Wadsworth.

NAYS.—Theodorus Bailey, Abraham Baldwin, David Bard, Lemuel Benton, Thomas Blount, Nathan Bryan, Dempsey Burges, Gabriel Christie, Thomas Claiborne, Isaac Coles, William Findley, Albert Gallatin, William B. Giles, James Gillespie, Nicholas Gilman, Christopher Greenup, Wade Hampton, George Hancock, John Hathorn, Jonathan N. Havens, John Heath, Daniel Heister, James Holland, George Jackson, William Lyman, Samuel Maclay, Nathaniel Macon, James Madison, John Milledge, Andrew Moore, Frederick A. Muhlenberg, Anthony New, Francis Preston, John Richards, Robert Rutherford, Richard Sprigg, jr., Thomas Sprigg, John Swanwick, Absalom Tatom, Philip Van Cortlandt, and Abraham Venable.

The question being thus decided in favor of the sitting member, Mr. W. LYMAN proposed the following resolution; which was adopted:

Resolved, That ISRAEL SMITH is entitled to a seat in this House as one of the Representatives from the State of Vermont.

IMPRESSMENT OF AMERICAN SEAMEN.

The SPEAKER laid before the House a letter which he had received from ten American captains, now lying with their vessels at Jamaica, complaining of the illegal impressment of their seamen by British ships of war, on which they are kept like slaves, and subjected to infectious diseases, with which the vessels of war are now visited; and stating that, until their men are set at liberty, they cannot return home. They pray for the interference of Government, since it had considered the case of their brethren in Algiers, whose situation was not worse than theirs. The letter and papers accompanying it were referred to the Secretary of State.

WEDNESDAY, June 1.

The bill authorizing the PRESIDENT OF THE UNITED STATES to lay, regulate, and revoke embargoes, during the ensuing recess of Congress, was read the third time and passed.

PROMULGATION OF THE LAWS.

Mr. TRACY, from the committee to whom was referred the bill from the Senate, to amend an act for the more general promulgation of the laws of the United States, reported, that they found on inquiry that the Secretary of State had contracted for the printing of the laws, a circumstance, they supposed, with which the Senate were not acquainted; and it was their opinion that a speedy promulgation of the laws would overbalance the objection of the Senate for wishing the printing of the laws to be postponed till after the next session; the reasons which induced this were, they understood, because the next session would complete four Congresses and two Presidencies.

The report was agreed to, and the bill was read the third time and rejected.

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State of the Finances.

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CALL FOR INFORMATION.

Mr. GALLATIN moved a resolution to the following effect, which was agreed to:

"Resolved, That the Secretary of the Treasury be directed to lay before this House, within the first week of the next session of Congress, a statement of the moneys expended for the Military Establishment for each calendar year, from the establishment of the present Government to the 1st of January, 1796, distinguishing the sums expended under each head for which specific appropriations were made; and also a statement of the expense attending the expedition of the militia to the Western counties of Pennsylvania under the several heads for which specific appropriations were made."

STATE OF THE FINANCES.

Mr. W. SMITH rose and said, it would be recollected that when the bill for paying the debt to the Bank was under consideration, a gentleman from Pennsylvania [Mr. GALLATIN] had gone into a minute examination of the finances of the United States, from which he had endeavored to prove that there had been an increase of the Public Debt, of five millions of dollars under the present Government. Mr. S. said, that he had come to the House the next day prepared to reply to the gentleman's statements, when to his great surprise, the House determined to postpone the consideration of the Bank bill, and take up the subject of the Treaty. A few days after, the gentleman from Pennsylvania withdrew altogether his opposition to the Bank bill, and thus Mr. S. was deprived of an opportunity of refuting the statements which had been introduced. This statement had since been published, and as it appeared to him to contain important errors, tending to mislead, he could not, consistently with his duty, suffer the session to close without pointing them out. He had for some time past watched for a suitable opportunity to effect this purpose, but had been prevented by the great pressure of public business. As this was the last day of the session, and there was now an interval unemployed, he would propose a call on the Treasury Department for information, to be laid before the House at the next session, on the points in contest, and would proceed to some observations calculated to detect the errors into which the gentleman from Pennsylvania had fallen, and at the same time to evince the propriety of agreeing to the proposition which was now submitted.

Mr. S. here read his resolution, as follows:

"Resolved, That the Secretary of the Treasury be directed to report to this House, the next session of Congress, a statement or statements exhibiting—

1. The amount of the Foreign and Domestic Debt of the United States, including the assumed Debt, on the 1st of January, 1790, and 1791, respectively.

2. The amount of the said debts on the 1st of January, 1796.

3. The amount of the anticipations at the close of each year, from the year 1791 to the year 1795, inclusive.

4. The amount of the specific Debts incurred by the late Government and paid at the Treasury of the present Government, and of the moneys arising from ba-

lances of amounts which originated under the late Government, prior to the 1st January, 1796.

5. The amount of Debts extinguished by the operation of the Sinking Fund to the close of the year 1795, distinguishing the sums placed under each of the heads of appropriations for that purpose.

6. An estimate of the sums expected to be received from the bonds which accrued from duties on imposts, to the close of the year 1795, after deducting the drawbacks and expenses of collection."

[The words in the above resolution printed in italic, were words introduced on motion of Mr. GALLATIN.]

Mr. SMITH, after proposing the above resolution, said he would first point out what appeared to him to be the errors into which the member from Pennsylvania had fallen, and then exhibit a correct statement of the financial situation of the United States.

[Here Mr. SMITH was interrupted by Mr. VENABLE, who inquired of the SPEAKER, whether this view of their finances was in order at this time. The SPEAKER declared Mr. S. in order while he was producing reasons for introducing the resolution on the table.]

Mr. SMITH continued, and observed, that even if he had been somewhat out of order, as he was endeavoring to correct an erroneous and deplorable statement of their financial situation which had gone out to the world, he presumed no friend of the prosperity of this country would have thought of interrupting and preventing him from so doing; on such an occasion he should have expected to have been heard by every person of that description not only with patience, but with pleasure.

Mr. VENABLE said he had no wish to prevent the gentleman from detecting error, but he did not think a long discussion on this subject was well-timed on the last day of the session.

Mr. SMITH proceeded. The gentleman from Pennsylvania, in order to make out an increase of debt of five millions, under the present Government, had assumed the following ground, viz:

1st. He states the excess of the expenditure at the end of 1794, beyond the revenue at - - - \$2,700,000 00

Answer. The Loans received were as follows:

From Foreign Loans	\$607,950 78	
Domestic Loans	3,400,000 00	
		4,007,950 78

From which he deducts only the Domestic Loans, repaid in 1794-	-	1,300,000 00
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Leaving what he styles an excess of -		2,707,950 78
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But the following sums of principal of the Public Debt were paid, of which he takes no notice, viz:

Instalments French Debt	453,750 00	
Dutch Debt, due 1st of		
June, 1794	400,000 00	
Domestic Debt purchased	185,832 91	
Payments to foreign officers -	44,752 35	
		1,084,335 26

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The real excess was, therefore, (instead of \$2,700,000, as stated by Mr. G.) only - \$1,723,615 52

2dly. He states an excess in the year 1795, of - \$1,500,000 00

Answer. The Loans received in 1795 were as follows, including Algerine Loan:
Domestic Loans - \$3,300,000
Foreign Loans - 96,424
3,396,424 00

The Domestic Loans repaid in 1795 amounted to 1,600,000
The instalments of French Debt paid this year - 453,750
Dutch Debt, due June, 1795 400,000
The reimbursement of six per cent. stock - 560,000
3,013,750 00

The real excess was, therefore, (instead of \$1,500,000, as stated by Mr. G.) only - \$382,674 00

3dly. He states as an increase of Debt, the interest which accrued on the Foreign Debt during the year 1790 - 500,000 00
And that which accrued on the Domestic Debt in the same year - 900,000 00
\$1,400,000 00

Answer. Both these debts were incurred under the former Government: the Funding act did not pass till 4th August, 1790: the act for raising an adequate revenue did not pass till 10th August, 1790; those revenues could not come into the Treasury till the ensuing year. How, then, could the interest of 1790 be paid? It is absurd to call that interest an increase of debt under the present Government; it was a part of the debt contracted under the old Government. This item is therefore to be expunged.

4thly. He lastly states, as an increase of debt, under the present Government, the interest accruing on the assumed debt, during the years 1790 and 1791, amounting to - \$1,050,000 00

Answer, 1. The Funding act passed 4th August, 1790. It was impossible to make the necessary arrangements in time to fund the State debts, before the end of the year 1791.

2. The act providing the requisite funds for the assumed debts did not pass till 3d of March, 1791, and those funds could not come into the Treasury before the year 1792: but,

3. This interest was charged to the States, in the settlement of accounts between the United States and the several States. Being therefore interest, which formed part of a debt contracted before the existence of the present Government, which could not possibly be discharged during the years 1790 and 1791, and which

was charged to the States by the Commissioners, it cannot form an item of increase of debt under the present Government.

Recapitulation of Errors.

1st Error. Excess stated by Mr. G. in 1794 - \$2,700,000 00
Real excess, only - 1,723,615 52
Difference - 976,384 48

2d Error. Excess stated by Mr. G. in 1795 - 1,500,000 00
Real excess only - 382,674 00
Difference - 1,117,326 00

The increase of debt by the anticipations of 1794 and 1795, was only \$2,106,289 82, instead of \$4,200,000, as stated by Mr. G. The two first items of his statement are therefore erroneous by the sum of - 2,093,710 48

3d Error. Improper charge of the interest on Foreign and Domestic Debt for 1790 - 1,400,000 00

4th Error. Improper charge of the interest on the assumed Debt of 1790 and 1791 - 1,050,000 00

Amount of errors in Mr. Gallatin's statement - \$4,543,711 48

To the above may be added, a material misstatement, in respect to the Sinking Fund. He credits the Government with only the sum of \$957,770 65; because, as he says, that sum alone was applied out of the actual resources of the United States to the purchase of the debt; but he ought to have fairly stated that, by the judicious application of that sum, a very considerable amount of debt had been redeemed. The stock standing to the credit of the Commissioners of the Sinking Fund on the 18th day of December, 1795, arising from purchases, amounted to \$2,307,661. Part of this being purchased with moneys drawn from loans, it is impossible to say with exact precision what portion has arisen from actual domestic resources; but it must be considerable, because it appears that only the sum of \$522,925 has been purchased with moneys drawn from loans. This constituting only a small part of the amount actually purchased of the debt, it follows, that about the sum of \$1,700,000 must have been redeemed by the aforesaid sum of \$957,770 65, and the interest accruing thereon. It must be remembered that, as it was impossible to pay the interest of the Domestic and Foreign Debt for the year 1790, the Funding act not having passed till 4th August of that year, the late Secretary of the Treasury, Mr. Hamilton, recommended the judicious plan which Congress adopted, of constituting a Sinking Fund with the surplus revenue of that year, amounting to the before-mentioned sum. The application of that sum in purchases produced two very beneficial effects: the Government were ena-

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bled to buy up the debt considerably under par and, by purchasing, gradually raised the value to par, which was an advantage to the community. It appears, from the report of the Commissioners, that a great part of the sum redeemed was obtained considerably below par, and that in the course of four or five years the sum of \$957,770 65 has yielded the sum of \$1,700,000, in funded stock, the greatest part of which either now bears or will shortly bear an interest of 6 per cent. Now, as the gentleman from Pennsylvania had thought proper to charge the present Government with the interest accruing on the Domestic and Foreign Debt during the year 1790, as an increase of debt, it would have been but fair in him, according to his own mode of statement, to give the Government credit for the whole sum produced by the well-timed application of the surplus revenue of that year.

The difference between the sum which that surplus may fairly be estimated to have produced and that surplus itself, may be charged to the gentleman from Pennsylvania as an omission, and another error, amounting to about \$750,00 00 Which, added to the before noticed errors, of - - 4,548,711 00 makes an aggregate of errors and misstatements, of - - 5,298,711 00

About equal to the sum at which he states the increase of debt.

But, even taking his statement respecting the excesses of expenditures, as just and correct in all its parts, and what does it amount to? Why, that from the year 1793 to 1796, the expenses have exceeded the income by the sum of \$2,800,000; and, if we set off against that excess the sum of \$1,200,000, expended in suppressing the Western insurrection, the loss of revenue for five years in the Western counties by combinations against the officers of the revenue, (which occasioned that insurrection,) and the further sums expended in stationing troops in those counties to prevent another insurrection, and we shall nearly balance the gentleman's account.

Taking, however, the authentic statement, as collected from official documents, it appeared that the excess was, instead of \$2,800,000, only \$706,147 39, notwithstanding the very great and extraordinary expenses the Government had incurred since the end of 1793, in suppressing the insurrection, in negotiations to preserve our neutrality, in negotiations with the Mediterranean Powers, in the fortifications of our harbors, supplying our arsenals, building frigates, and carrying on very expensive operations on the frontiers against the Indians. And against this small excess, was to be set off a considerable part of the proceeds of the Sinking Fund, and the gain which the Government had made by the acquisition of Bank stock, calculated at half a million of dollars; and the Government had, moreover, commenced the redemption of the debt, and had paid off, on the 1st of January, 1796, \$560,000, on the principal of the six per cent. stock.

Mr. S. observed, that there was another item

which ought to be carried to the credit of the United States; he had not stated it among their available funds, because it was uncertain how soon the United States might get possession of them. He alluded to the sums or balances due by the debtor States in consequence of the settlement of accounts between the several States and the United States.

This sum amounted, on the 31st December, 1789, to \$3,517,584. Add the interest thereon to 1st January last, at 4 per cent., (the rate of interest allowed by the United States to the creditor States on their balances,) \$844,218. Total on 1st January last, \$4,361,802.

As the United States have assumed and funded that sum to the creditor States, in behalf of, and as guarantees of the debtor States, it may properly be considered as a just claim against the latter, and he hoped measures would be taken at the next session to place this business on some footing of adjustment, which would indemnify the United States for these advances, without being materially inconvenient to the debtor States.

Mr. S. said, that having pointed out what appeared to him to be the errors of the gentleman's statement, he should proceed to exhibit his own view of the real situation of our finances.

The question whether the Debt of the United States had increased or diminished under the administration of the present Federal Government, would, he said, be fairly answered by the following statements, which exhibited a comparative view of those Debts as they existed on the 1st day of January, 1791, and on the 1st day of January, 1796:

1st. The Public Debt on the first day of January, 1791, consisted of the following particulars:

The Debt due to France	-	\$8,091,753 52
The Debt due in Amsterdam	-	3,881,827 03
The Debt due to Spain	-	250,332 50
The Debt due to foreign officers	-	231,975 81
The Domestic Debt contracted by the late Government, or the Debt arising from considerations prior to the present Constitution of the United States, including the Assumed Debt, and the balances due the States, amounted to		
		64,825,538 27

To discharge the pecuniary obligations of the United States on the 1st of January, 1791, including the Assumed Debt, there would therefore have been necessary the sum of

- 77,231,277 13

2d. Of the Public Debt on the 1st of January, 1796,

The Foreign Debt, including the instalment which fell due on the 1st of June, 1795, was		
	-	\$12,200,000 00
The capital of the 6 per cent. stock on the 30th September, 1795	-	29,310,856 86
The Deferred Debt on the 30th September, 1795	-	14,561,934 41
The 3 per cent. stock	-	19,569,909 63

[Including near \$4,000,000 for balances to creditor States and now due to the United States by the debtor States.]

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The 5 1-2 per cent. stock	-	-	1,848,900 00
The 4 1-2 per cent. stock	-	-	176,000 00
The Unfunded Debt	-	-	1,382,837 37
The Domestic Loans had of the Banks	-	-	6,200,000 00
Add a sum sufficient fully to reimburse the Debts due to foreign officers beyond what had been applied prior to January 1, 1796	-	-	75,984 52

Total Debt on the 1st January, 1796, including the sums placed to the credit of the Commissioners of the Sinking Fund, and certain reimbursements which are hereafter deducted	-	-	85,326,422 79
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The sum first mentioned being deducted from \$85,326,422 79, being the apparent amount of Debt due on the 1st January, 1796, exhibits an increase of Debt amounting to	-	-	\$8,095,145 66
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But against this apparent increase of Debt the following sums are to be opposed, viz:

The stock actually purchased, redeemed, and vested in the Sinking Fund	\$2,703,481 99
The instalment of the Foreign Debt, which fell due in June, 1795, and now paid	400,000 00
The stock of the Bank of the United States held by the United States, valued only at par	2,000,000 00
The instalment of the 6 per cent. stock redeemed on the last day of December, 1795	560,000 00
Debts of the late Government paid in specie at the Treasury prior to January, 1794	445,860 55
There remained, at the close of 1795, bonds for duties on imports, which would be collected and paid into the Treasury, clear of all deductions, at least	4,000,000 00

Amounting, in the whole, to - 10,109,342 54

The sum of \$8,095,445 66 being deducted from 10,109,342 54, leaves the sum of	-	-	\$2,014,196 88
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Which sum is the excess of the means which have been acquired by the Present Government beyond the payment of interest, and all current expenses, and is sufficient to repel every idea of an accumulation of the Debt.

It was to be remembered that the temporary Debt of the United States had been increased by unforeseen events by the following sums:

The insurrection	-	\$1,200,000 00
Expenses of foreign negotiations	-	1,000,000 00
Building of frigates and fortifications	-	600,000 00
	-	2,800,000 00

Mr. S. thought he was therefore warranted in saying, that, instead of an increase of debt of five millions, there was, notwithstanding all the difficulties and obstructions which the Government had to encounter, an excess in favor of the Government of two millions. However, he did not wish to rest this statement upon his own authority; he was willing to confess that he might be as much biased by his attachment to the Government to represent things in too favorable a point of view as others might be to exhibit them under their most unfavorable aspect. He had, therefore, brought forward the resolution which he had read, in order that the House might, at the next session, be in possession of the fullest information on so interesting a subject.

Mr. GALLATIN said, that as the subject which had given rise to his former observations on the state of our finances, had been repeatedly before the House since that time, the remarks made by the gentleman from South Carolina having, upon those debates, been omitted by him, now, on the very day of adjournment, came certainly unexpected. He had not by him a single paper or document he could apply to, and he must therefore suffer several of the observations of that gentleman to pass without an investigation of their accuracy. Yet, as he must necessarily make a reply immediately, it being the only opportunity he could have during the session, he would proceed, unprepared as he was, as he thought that he had it fully in his power, from the very statements just made by the gentleman, to show that that gentleman had not disproved a single fact that he had himself advanced on that subject, and that the real difference between them would be found to be solely on matters of opinion.

He would premise what he had to say, by observing that the gentleman from South Carolina held in his hand his [Mr. G.'s] statement, as printed in the newspapers, that he had time enough to reflect on the subject, and had himself chosen the moment of his attack; and, therefore, prepared as he was, he must have it in his power to detect the grounds of error of Mr. G.'s statement, if any; yet that gentleman, instead of disproving in a direct way that statement, had only attacked the results, by introducing new statements, constructed on different principles, and which it was difficult, if not impossible, to investigate upon a moment's warning.

The two first items in Mr. G.'s statement which the gentleman from South Carolina represented as erroneous, were the excess of expenditure beyond the receipts before the year 1705, and during that year. The mode which Mr. G. had adopted on that head was this: He had taken on one hand the aggregate of all the sums received in the Treasury from our own resources, rejecting all that was procured by loans, either foreign or domestic; and on the other hand, the aggregate of all the sums paid for current expenditures and interest on the Public Debt, rejecting all that was applied to the payment of the principal of any part of the Public Debt, or loans, either foreign or domestic. It was self-evident, that if our current expend-

tures, thus stated, exceeded our receipts, the deficiency must have been supplied by borrowing money, by loans, by an increase of debt; whilst any redemption, purchase, or payment of the Public Debt, which might have taken place in the mean time, must necessarily have ultimately been paid out of moneys borrowed, out of other loans, and was of course only a shifting of debt, since they could not have been paid out of the receipts in the Treasury from domestic resources, these being less than, and, therefore, altogether absorbed by, the current expenditures. The gentleman from South Carolina had not attempted to controvert the principle upon which that statement was grounded; and, in order to show that it was erroneous in its details, he should have proved, either that Mr. G. had not included the whole of the moneys received into the Treasury, or that he had inserted, under the head of expenditures, objects which related to the payment of the principal of a debt. That gentleman had done neither; but what had he attempted to show? Firstly, he had asserted that Mr. G. had made an error of \$976,000 in his account of the excess of expenditures beyond revenues to the end of the year 1794. In order to prove it, he had, by subtracting the whole amount of the debt purchased or paid during the year 1794, from the whole amount of the moneys borrowed during the same year, (a mode upon which Mr. G. said he would forbear observing for the present,) stated the real excess of expenditures over receipts, for that year, to be \$1,723,000, and the difference between that sum and \$2,700,000, which Mr. SMITH asserted had been stated by Mr. G. as the excess of expenditures to the end of 1794, (being the aforesaid sum of \$976,000) that gentleman called the first error of Mr. G.

Supposing both the statement and the assertion of the gentleman from South Carolina to be correct, the conclusion drawn by him was most extraordinary. He attempted to show that the excess of expenditures beyond the receipts, from the establishment of the present Government to the end of the year 1794, was less than \$2,700,000, by proving that that excess, during the year 1794, was only \$1,723,000! The only part of his own [Mr. G.'s] statement which could be invalidated by that position would be the balance which he had represented as deficient for the year 1794; but the gentleman, by recurring to the statement in his own hand, would see that Mr. G.'s result for that year alone, the sum which he had called the excess of expenditures over receipts for that year, was only \$1,480,000—that is to say, less by near \$250,000 than the gentleman made it himself. But in fact, the member from South Carolina had not attended to Mr. G.'s statement; if he had, he would have seen that Mr. G. had stated the excess of expenditures beyond receipts, from the establishment of the present Government to the end of 1794, after deducting the moneys applied to the redemption of the debt, at only \$1,350,000, and not at \$2,700,000, and that, of course, the whole of his observations upon that item fell to the ground.

The next item, the excess of expenditures over

receipts for the year 1795, he had stated as more than one million, probably \$1,500,000, and in the printed statement which the gentleman from South Carolina had in his hand, it was ultimately estimated at \$1,400,000. That gentleman stated that excess as being only \$380,000, and he had attempted to prove it by subtracting the moneys applied to the payment of the Public Debt for that year, from the moneys borrowed in the same period. Although Mr. G. could not recur at once to documents in order to controvert that statement, he would point out three material errors therein; 1st. The gentleman from South Carolina stated the two per cent. paid on the 1st January last, on the six per cent. stock at \$560,000, instead of \$516,000. 2d. He stated the amount paid on the principal of the French Debt at \$453,000, whilst that was the whole amount paid on account of both principal and interest; and if so much had been paid to France, part of the interest due to Holland must have been paid out moneys in Holland arising from Foreign Loans, and had so far diminished our balance in cash in the hands of our bankers there. 3dly. He had neglected to mention that the balance in cash in the Treasury on the 1st January, 1795, was about \$1,150,000, and on the last day of the same year did not much exceed \$500,000. The errors arising from those three items added to the deficiency stated by the gentleman from South Carolina, (\$380,000,) made an aggregate of about \$1,350,000, which came very near to his own estimate of the deficiency for that year.

Mr. G. added, that the comparative view of the Public Debts on the 1st days of January, 1795 and 1796, as given by the gentleman from South Carolina himself, corroborated his own estimate of the excess of expenditures over receipts on the 1st January, 1796. It was impossible for him to controvert the accuracy of that statement, which he had just heard read, and he must, for the present, take it for granted; although he might observe, 1stly, that the amount of Domestic Debt stated by that gentleman at \$64,825,000 on the 1st of January, 1791, was the very sum stated by the Secretary of the Treasury as its amount on the 1st of January, 1795. 2dly. That he had stated as a set-off, \$2,700,000 vested in the Sinking Fund, which was \$400,000 more than the nominal amount of Public Debt stated by that gentleman to have been redeemed by purchases, and that, although he could not disprove, yet he much doubted whether that item of \$400,000 was admissible. But, waiving every objection to the statement, its result was, that on the 1st January, 1796, there was an apparent increase of Debt of about \$3,100,000, against which should be set off a variety of items amounting to \$6,100,000, and uncollected bonds (which would make part of the receipts of the years 1796 and 1797) to the amount of \$4,000,000, leaving, in the opinion of the gentleman from South Carolina, an excess, not of moneys in hand, but of means acquired by the Government, of about \$2,000,000. If the bonds, which made no part of the receipts prior to 1796, and which, therefore, Mr. G. had not admitted as a set-off, were

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taken from that amount, it left a deficiency of \$2,000,000, on the very principles of the gentleman from South Carolina. He had himself stated that deficiency at \$2,760,000, and of course the only difference between them was \$760,000, which arose from his having given credit to Government, in the account of purchases of Public Debt, only for the moneys applied to that purpose, whilst that gentleman had set down the whole of the nominal amount purchased. This difference had been stated by the gentleman himself at £750,000; and having thus shown, by that gentleman's own statements, that this item constituted the whole difference between them, so far as related to the excess of expenditures beyond receipts to the end of 1795, he would now proceed to the examination of that item.

The purchases of Public Stock by the Commissioners of the Sinking Fund, were made with moneys arising from three sources, to wit: moneys received from Foreign Loans, surplus of revenue of 1790, and moneys arising from the interest accruing on the stock purchased and redeemed. The nominal amount of stock of every description, (six and three per cent. and deferred,) purchased from all three sources, was stated by the gentleman from South Carolina at \$2,307,000; from which he had deducted the amount purchased with moneys arising from Foreign Loans, and had stated the balance purchased with our domestic resources at \$1,700,000. The difference between that sum and \$957,000, (surplus of revenue of 1790, applied to purchases) which last sum Mr. S. had said to be the only amount credited by Mr. G. to Government, constituted the difference stated by that gentleman as an error of \$750,000 in Mr. G.'s statement.

Mr. G., in answer, observed, that in the first place, the gentleman from South Carolina had not attended to the whole of his statement; for, although he had, in his account of expenditures and receipts, taken notice only of the said sum of \$957,000, he had, in his recapitulation, reduced his estimate of the increase of Debt from \$5,300,000 to five millions, allowing, as he had expressly stated, the \$300,000 for sundries he had neglected, and especially for the proceeds of the interest of the Sinking Fund. Then he had given full credit for the moneys arising from that interest, amounting to about \$225,000, which, added to the \$957,000 above mentioned, made an aggregate of \$1,180,000, for which he had credited Government, being the total amount of moneys arising from domestic resources applied to purchases, which aggregate subtracted from the sum of \$1,700,000, stated by the gentleman from South Carolina as the nominal amount of stock purchased, left a difference of only \$520,000, instead of \$750,000. This difference of \$520,000 was not, however, a difference as to fact, but only as to opinion; for they both agreed that only \$1,180,000 had been applied to purchases, and that \$1,700,000 had been purchased; and the only question was, which of the two sums should be credited. The gentleman from South Carolina insisted that the whole nominal amount should be set down,

1stly, because, as he insinuated, the reason why it was larger than the amount of moneys actually applied to purchases, was the judicious application of the money and the low price at which stock had been purchased; and, 2dly, because Mr. G. had charged Government with the whole amount of interest which had accrued on the debt during the year 1790. In answer to the first assertion, Mr. G. observed, that the true cause why the nominal amount of stock purchased was larger than the moneys expended in purchases, was, that more than two-thirds of the sum redeemed, (by domestic resources,) more than \$1,200,000 consisted of three per cent. and deferred stock; and he would leave it to the candor of the House to decide whether, that being the fact, that sum should be set down at its nominal value, or whether it was not a fairer way to value it at what it had cost? It would be, to be sure, a most extraordinary argument to borrow one million of dollars at six per cent., to purchase with that million two millions of three per cent. stock, and then to boast that the debt was decreased by one million of dollars. Mr. G. added, that it was perfectly fair in him, on the principles of his own statement, (where he had charged Government with the interest which accrued during 1790,) to have credited the amount only of moneys expended in purchasing stock, instead of the nominal amount purchased; for, although he had charged the whole amount of interest accruing during 1790, he had valued the whole three per cents. and Deferred Debt created by the non-payment of said interest, at only one-half of its nominal value; and having gone on that principle in his charges, it was perfectly consistent to preserve it in his credits. Indeed, if he was to make a new statement, upon the principle of the gentleman from South Carolina, of setting down the nominal amount; instead of the real value, of every species of Debt, either created or redeemed, a larger increase of Debt would appear as the result; for the amount of three per cent. and deferred stock created by non-payment of interest, during 1790 and 1791, was much larger than the amount of the same descriptions of Debt purchased by the Commissioners of the Sinking Fund.

To the next item, estimated by Mr. G. at 1,400,000 dollars, and arising from the interest which accrued during the year 1790 on the Domestic Debt, and created an equal amount of Debt in three per cent. stock, and from the interest for the same year on the Foreign Debt, which was discharged out of new loans, there was no objection made by the gentleman from South Carolina as to fact; but he had given it as his opinion that it was not fair to set that sum as an increase of Debt, because the funding system having begun to operate only after the year 1790, the United States could not pay that interest. Such an argument might have applied, had Mr. G. blamed government for not paying it; but as he had only stated the fact; to object the inability of the Government did not invalidate, but, on the contrary, was an admission of his own assertion. It must be remembered that it was in answer to what he conceived a falla-

cious and exaggerated statement, in which it had been asserted that we had diminished our Public Debt since the establishment of the present Government, that he had simply stated what was our situation on the 1st of January, 1790, (that is to say, ten months after the establishment of this Government,) and what it was six years after, on the 1st of January, 1796, it was clear that in doing it, he could not annihilate the year 1790, and that the interest accruing during the year, if not paid at all, or if paid out of the new loans, must have constituted an increase of Debt, which did not the less exist, because the United States had been unable to pay it. The observations of the gentleman from South Carolina, on this head, amounted only to this: that, in order to take a fair view of the operations of this Government, we should consider it as having begun only in the year 1791—that is to say, near two years after its commencement. But Mr. G., at the same time that he had left out the year 1789, which he conceived to have been employed in preparing a revenue for the following years, could not leave out also the year 1790, and that for a very palpable reason. The revenue system was in full operation during that year, and had given a surplus of revenue for that very year amounting to about 1,400,000 dollars, out of which 957,000 dollars, as before stated, had been applied to a redemption of the principal of the Debt. He had given credit for that sum in his statement, and the gentleman from South Carolina would have been very clamorous if he had not, and it would have been absurd in him, whilst he was crediting that surplus of revenue applied to a redemption of the Debt, and showing, therefore, a decrease of Debt, not to charge the increase of Debt which was taking place at the same time, by the interest accruing during that very year. The United States might have applied that surplus, either to the payment of the principal or of the interest of the Debt; they had, judiciously in his opinion, chosen the first; but the natural consequence was, that the last remained unpaid, and became as fair an item of Debt increased as the first was an item of Debt redeemed.

The same observations would apply, still more forcibly, to the last item, which he had estimated at 1,050,000 dollars, arising from non-payment of the interest accrued during the years 1790 and 1791 on the same assumed Debt; which was funded, part as six per cent., part as three per cent., and part as deferred stock; he said more forcibly, because one-half of that interest had accrued during the year 1791, which year was not objected to by the gentleman from South Carolina himself. But that gentleman had, on this head, taken most extraordinary ground, indeed. Was not that gentleman aware that he [Mr. G.] had taken that view of the subject which was most favorable to the opinion that the Debt had decreased? and that, if compelled to take a different view, his conclusions would show a far greater increase of the Public Debt during the existence of the present Government. That gentleman objected to that item, because that interest, although it had become a part of the Debt

of the United States, had been charged to the individual States, respectively, by the Commissioners who settled their accounts. Upon this Mr. G. observed:

1. That the gentleman could not positively ascertain the fact; for, although the Commissioners were directed by law to charge to the individual States the Debts respectively assumed for each by the Union, and although it might be inferred from thence that they must charge also the interest to the 31st December, 1791, (which made part of the stock created by the assumption,) yet it was only an inference; and, by a subsequent law, those Commissioners were directed to charge each State with all advances which had been or might be made to it by the United States, with interest thereon only to the last day of December, 1789. All that could be said, was, that the two laws were contradictory with each other. In what manner the Commissioners had reconciled or explained them they did not know; but certain it was, that if they had charged the States with the whole assumption, including the interest to the 31st of December, 1791, as they had credited the States for their advances only with interest to the 31st December, 1789, the balances struck to each State, although in conformity to law, were all of them incorrect and erroneous.

2. That, if that interest had been actually charged to the respective States, it must certainly have changed all the balances; but how it had finally operated, and whether it had made those balances larger or less, that gentleman could not tell.

3. That, whatever effect that charge might have produced on the balances of each State, it had not, abstractedly, made any change in regard to the United States; for, be the balances what they may, the aggregate amount of those due by debtor States must necessarily have been equal to those due to creditor States: so that the observations of the gentleman were perfectly irrelevant.

But that was not all. The assumption of the State Debts might be considered under two points of view. Those Debts might, in the first place, be contemplated as Debts due by the Union.

In that light, they were only viewed as Debts due by the people of the United States—making it, therefore, immaterial whether they were paid by the Union or by the individual States. In that light, they stood unconnected with the settlement of accounts of the States; and it was as such that Mr. G. had considered them. He had chosen to do it, because he had avoided taking any ground which might have the appearance of an objection to the principles of the Funding System. In that point of view—it being a certain fact that the interest to the end of 1791 had not been paid to the creditors, either by the States or by the Union, but that it had been funded by the last—it became a proper item to be stated as an increase of Debt. But if that assumption was, upon the principle of the gentleman of South Carolina, to be considered as connected with and operating on the settlement of the accounts of the individual States: if the Debts thus assumed were to be viewed, not as a Debt of the Union, but as Debts of the States,

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[H. or R.]

charged to them by the Union, then every part of that assumption which had not been repaid by the States, must be contemplated as an increase of the Public Debt of the Union; and it was not the partial effect produced by a specific charge, but the whole effect produced by the assumption itself, on the final settlement of the accounts of the several States, which must be taken into consideration. They well knew the amount of the Debt incurred by the mode which had been adopted, of assuming before the accounts were settled—about eighteen millions and a half assumed, and three millions and a half funded to the creditor States for the balances due them—made an aggregate of near twenty-two millions of dollars, against which they had nothing but three millions and a half, to be recovered from the debtor States. It remained to examine what would have been the final balances due to and by the several States, if no assumption had taken place. Although the books of the Commissioners were not opened to their inspection, yet they had sufficient data to make the calculation. Mr. G. said he had made it, and found that the aggregate amount of the balances which would have been found due to the creditor States, (and of course due by the debtor States, if no assumption had taken place,) would have been very little more than eight millions of dollars. From whence it resulted, that, supposing the balances due by the debtor States to be lost in both cases, the increase of Debt arising from the assumption was fourteen millions of dollars—it being the difference between twenty-two millions which had actually been funded, and eight millions which would have been funded for balances due to the creditor States, if no assumption had taken place; that, supposing the balances due by the debtor States to be recovered in both cases, the increase of Debt arising from the assumption was the amount assumed, exclusively of the balances, to wit, near eighteen millions and a half of dollars; that, supposing the balances due by the debtor States to be lost, and that, in case no assumption had taken place before the settlement of accounts, the United States had, after settlement, in order to equalize the loss arising to the creditor States from the debtor States not paying their balances, assumed four millions and a half in addition to the eight millions balances funded to the creditor States—the aggregate (making twelve-and-a-half millions of dollars) would still have been less, by a sum of nine millions and a half, than the twenty-two millions which had been funded according to the plan which had been adopted. Thus, a statement made on the principles upon which the objection of the gentleman from South Carolina, did rest, would present, on the most favorable position, an increase of more than nine millions of dollars for the assumption alone.

Mr. G. said that not only he had forborne making his calculation on that principle, but that he had not even presented another view of the same subject, which, although not so correct, in an abstract point of view, was more simple and practically true. The amount of Debts actually assumed and funded for States who had turned out

to be debtor States exceeded two millions of dollars. That sum was an increase of Debt arising solely from the operations of Government, and which would be eventually lost unless recovered from those debtor States—an event which was not contemplated by many. And here, he would observe, that the remarks made by the gentleman from South Carolina on the subject of the recovery of those balances, if he meant to convey an idea that they should constitute an item to the credit of the United States, were altogether fallacious; for they could be set off only against the balances funded to the creditor States; and these had not been charged, either by that gentleman's or by his own statement, as an increase of Debt under the present Government.

Mr. G. concluded by observing, that, having fully demonstrated that the gentleman from South Carolina, so far from having disproved any of the facts stated by him, had on the contrary supported them by his own statements; and having submitted to the House his reasons in support of those points on which they differed as matters of opinion, he would not object to the resolutions moved by that gentleman, although there was not a single document he asked for which was not already in the possession of the House, and although the sole object of the call on the Treasury Department was to procure statements in that shape and for those periods only which were best calculated to favor the gentleman's opinions, and to give some support to his systems. For the statements to be given, in conformity to those resolutions, would present a view neither of the interest accrued on the Domestic and Foreign Debt during the year 1790, nor of the interest accrued on the Assumed Debt during the years 1790 and 1791, nor of the expenditures, as compared with receipts, which were exactly the three points upon which they differed.

Mr. W. SMITH admitted that there was one point, and only one, in which he and the gentleman agreed; that was, in vindicating the Administration from every blame for this supposed increase of debt. He was glad to find the gentleman so ready now to acknowledge that the Administration had done everything in their power, with the means in their hands, and that if any blame did attach, it was on Congress, for not providing more resources. As the gentleman disclaimed an intention of censuring the Administration, Mr. S. was at a loss to discover the motives for his statements. In every other respect, the gentleman and himself differed altogether. There were four items respecting which they differed essentially, the result from which was, that the gentleman's statement produced an increase of Debt of five millions, and his exhibited an increase of means of two millions.

1. The first item related to the amount of anticipations or expenditures beyond the receipts at the end of 1794. Those anticipations must have arisen from Loans; in order, therefore, to ascertain the amount, it was necessary to state the whole amount of Loans to that period, and then deduct the amount of Debts paid thereout; the balance constituted the true amount of anticipations. By

H. OF R.]

Sundry Business—Adjournment.

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this process, it was demonstrable that the true amount at the end of 1794 was only 1,723,615, instead of 2,700,000, as stated by the gentleman.

2. The second item related to the amount of excess of anticipations during the year 1795. By pursuing the same process, this appeared to be only 382,674, instead of 1,500,000, as stated by the gentleman.

3. The third item arose from a different view taken by them as to the interest accruing on the Domestic and Foreign Debt during the year 1790. This amounted to 1,400,000. On this point, it was to be remarked, (in addition to his former observations,) that while the gentleman charged this item as an increase of Debt, under the present Government, he had omitted to credit the Treasury with the sum actually produced by the surplus revenue of that year. That surplus, instead of being applied to the discharge of the interest of the Foreign and Domestic Debt for 1700, was more profitably employed in buying up, considerably under par, the principal of the Domestic Debt. If, therefore, it was right in the gentleman to charge that interest as an increase of Debt, it was equally so to credit the Government with the whole sum produced by the fund, which was diverted from the payment of that interest. This sum was about 1,700,000, but the gentleman had only credited the Treasury for 957,000.

4. The last item was the interest of the Assumed Debt for 1790 and 1791. It was admitted that this was a charge against the States. Whether the United States would ultimately recover from the debtor States the whole of the balances due, was a question not necessary then to be discussed. It could not, however, be a question whether a part would not be recovered. These balances, and the interest due thereon, at only four per cent., amounted to upwards of four millions. Supposing that only 25 per cent. should be recovered, it would be a sufficient set-off against this item of \$1,050,000 in the gentleman's statement of the increase of Debt.

Mr. S. expressed his satisfaction that he had had an opportunity, before the recess, of exhibiting a more agreeable view of the finances than had been done by the member from Pennsylvania, who had taken uncommon pains to present a very melancholy one indeed. Mr. S. concluded with observing, that, when he contemplated the very heavy unforeseen expenses incurred since the year 1793, by the necessary efforts for protection, and by unavoidable negotiations, the Western insurrection, the long and persevering obstructions to the collection of the excise, and the aversion in that House to an augmentation of the revenues, he was astonished, as well as delighted, to find that the finances were in so flourishing a situation, and that the Government had got along so well.

[In Mr. SMITH'S Statement of the Finances, printed at the foot of page 918, *ante*, the item, "Paid of Unfunded Debt, \$5,000,000," should read \$500,000; and the corresponding alterations should

be made in adding up the sums, so as to make the balance beyond ordinary expenditures \$13,900,000, instead of \$18,400,000.]

SUNDRY BUSINESS.

Mr. SWANWICK proposed the following resolution, which was agreed to:

"Resolved, That the Secretary of the Treasury be directed to lay before this House a statement of the drawback paid on the sundry dutiable articles exported from the United States in the years 1793, 1794, and 1795, compared with the amount of the duties collected on the same respectively."

Mr. SITGREAVES, from the committee to whom was referred the Message of the PRESIDENT respecting the posts of Detroit and Michilimackinac, reported that he had not been able to get the necessary information to make a report; therefore, he moved that the committee might be discharged; which was accordingly done.

The Senate, by their Secretary, informed the House that they had resolved that the bill for altering the time of holding the next session of Congress do not pass.

The amendments of the Senate to the bill for making appropriations for the Military and Naval Establishments for the year 1796 were read and agreed to. One of the amendments was to reduce the sum for the purchase of horses from \$7,500 to \$3,750; another was to reduce the sum for the defence and protection of the frontiers from \$130,000 to \$100,000; the other was to conform the whole amount to these amendments—making it, instead of \$1,352,623, \$1,318,773.

The Senate's amendments to the bill indemnifying the estate of Major General Greene from a certain bond, were agreed to without debate.

Sundry resolutions were proposed and agreed to, making additional allowances to the Sergeant-at-Arms, Clerks, and Doorkeepers of the House for the present session.

The House then adjourned till five o'clock this evening.

EVENING SESSION.

The Senate informed the House, by their Secretary, that they had resolved that the bill authorizing the PRESIDENT OF THE UNITED STATES to lay, regulate, and revoke embargoes, during the ensuing recess of Congress, do not receive its third reading to-day.

Mr. J. SMITH, from the committee appointed to wait upon the PRESIDENT OF THE UNITED STATES, to notify him of the intention of both Houses to adjourn on this day, reported his approbation thereof.

The business before the House being finished, a message was sent to the Senate, to inform them that the House was ready to adjourn. Whereupon, after waiting some time to receive any answer that might be sent thereto, without receiving any—

The SPEAKER adjourned the House until the first Monday in December next.